

***United States Court of Appeals
for the Second Circuit***



APPENDIX

74-2030

United States Court of Appeals FOR THE SECOND CIRCUIT

Docket No. 74-2030

IN THE MATTER OF THE APPLICATION OF:
WILLIAM JONES, CLARENCE BRRIS, MARY HOBBS,
ROBERT CURRY, Mrs. EVELYN BROWN, THOMAS
HOLMES, Mrs. EPPIE JOHNSON, WILLIAM HARRIS,
Mrs. ALBERTHA JOHNSON, Mrs. ROSE WILLIS, Mrs.
SHARA BROWN, WILLIAM DORY, Mrs. ELLA HARRIS,
GEORGE ROSTKY and GREAT NECK MANOR CIVIC
ASSOCIATION, and all others similarly situated,
Petitioners-Appellants,

—v.—

ROBERT C. MEADE, JAMES R. WELLS, MICHAEL J.
TULLY, JR., GEORGE C. SCOS, FELIX G. ANDREWS,
JOHN F. McDONALD, ARTHUR G. BINGHAM, WILLIAM
H. RYAN, JR., TOWN OF NORTH HEMPSTEAD,
First Respondents-Appellees,

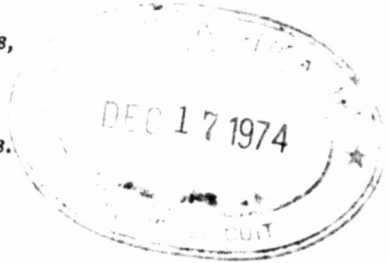
HECTOR H. GAYLE, Executive Director, BERNARD GARTLER,
Chairman, JOSEPH CECI, DR. CURTIS KENDRICK,
LOCAL URBAN RENEWAL PLANNERS,
Second Respondents-Appellees,

JOHN MAYLOTT and GERALD B. CRUISE, DEPT. OF
HOUSING AND URBAN DEVELOPMENT,
Third Respondents-Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

FEDERAL RESPONDENTS' APPENDIX

DAVID G. TRAGER,
*United States Attorney,
Eastern District of New York.*



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FEDERAL RESPONDENT'S LOCAL RULE 9(g) STATEMENT

JDP:HJF:ec
F. # 730800

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X

WILLIAM JONES, et al.,

Petitioners,

Civil Action
No. 73 C 1104

- against -

ROBERT C. MEADE, et al.,

Respondents.

----- X

FEDERAL RESPONDENTS' STATEMENT OF MATERIAL
FACTS TO WHICH THERE IS NO GENUINE ISSUE
TO BE TRIED PURSUANT TO RULE 9(g) OF THE
LOCAL RULES

There is no genuine issue as to the following material facts:

1. The proposed Spinney Hill housing site, consisting of 100 units, of which 20% will be low income and 80% moderate income, to be situated in the Spinney Hill NDP project, is being developed by the North Hempstead Urban Renewal Agency ("LPA"), an agency of the Town of North Hempstead ("Town").

2. The LPA submitted an NDP application for the Spinney Hill site to the Department of Housing and Urban Development ("HUD") on April 17, 1972.

3. The land acquisition for the housing site in question is in part being funded by HUD and HUD will not fund the construction on the site or subsidize the rentals.

4. Pursuant to 42 U.S.C. Section 2000d-1 et seq., HUD promulgated the NDP Project Selection System, 24 C.F.R. 201.511 which Project Selection System criteria provides an institutionalized method for HUD to make an informed decision as to the effect of an NDP application on the minority concentration within the area requesting Federal financial assistance.

5. The Spinney Hill NDP application was reviewed by HUD staff, in order to determine if the application complied with the Housing Act of 1949, as amended, and the Civil Rights Acts of 1964 and 1968.

6. The Spinney Hill NDP was given a "good" rating as to whether there was a realistic plan to expand the supply of housing for low and middle income families outside areas of minority concentration.

7. In order for the Town to secure a recertification of its initial Workable Program for Community Improvement, HUD required the Town to make efforts to secure alternate sites for low-income housing outside areas of minority concentration.

8. On May 13, 1971 the Town passed resolution 297-1971, publicly committing itself to provide subsidized housing on an equal housing opportunity basis throughout the Town in an effort to prevent ghettoization.

9. The Town has encouraged and received several proposals for the construction of low income housing outside areas of minority concentration.

10. The Cuttermill Road site (also known as Watermill), providing 72 low income apartments outside areas of minority concentration has been approved by the North Hempstead Housing Authority.

11. The Port Washington Boulevard site consisting of 28 units of low income housing outside areas of minority concentration has been approved by the Town.

12. The basis for the HUD approval on September 15, 1972 of the Spinney Hill NDP application is the strong commitment by the Town to construct low income housing outside areas of racial concentration as indicated in paragraphs 6 - 12 above.

13. On September 11, 1973, pursuant to 42 U.S.C. §2000d-1 et seq., and 24 CFR §1.7 et seq. petitioners filed a complaint with HUD alleging that the Federal funding of the Spinney Hill site was in violation of Federal law.

14. Upon receipt of the complaint HUD instituted a review of the Spinney Hill Neighborhood Development Program that included meetings with the petitioners, the Town and LPA officials.

15. HUD concluded that the complaint be closed because there was no basis in fact for the alleged violations of the 1964 and 1968 Civil Rights and the Town's policy to provide low income housing throughout North Hempstead was a desirable policy in conformance with the law.

Dated: Brooklyn, New York
April 30, 1974

EDWARD JOHN BOYD V
United States Attorney
Attorney for Federal
Respondents

By:

Harold J. Friedman
Assistant U. S. Attorney

AFFIDAVIT OF GERALD B. CRUISE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

IN THE MATTER OF THE APPLICATION OF:
WILLIAM JONES, et al.

AFFIDAVIT

Petitioner,

Civil Action

-against-

73C 1104

ROBERT C. MEADE, et al.

Respondent

-----X

STATE OF NEW YORK)
DISTRICT OF NEW YORK) ss:

GERALD V. CRUISE, being duly sworn, deposes and says:

1. I am the Program Manager for Sub-Area 2 of the New York Area Office of the United States Department of Housing and Urban Development (herein after "HUD"). Inpart, this area encompasses Long Island, and in particular the Town of North Hempstead. I am the general supervisor of our field staff, and in that capacity I have reviewed and I am familiar with the Spinney Hill Neighborhood Development Program (hereinafter "NDP").

2. The Spinney Hill housing site consisting of 100 low and moderate income proposed to be apartments/funded under the New York State Mitchell-Lama program, is situated in part of the Spinney Hill NDP project site and said NDP is being developed by the North Hempstead Urban Renewal Agency (hereinafter "LPA"). The LPA prepared an NDP application which was submitted on April 17, 1972 to HUD and reviewed by a HUD field team, consisting of a field representative, engineer, urban planner, appraiser, equal opportunity specialist and numerous other HUD personnel. My recommendations of approval were later concurred in by the Acting HUD Director of Operations.

3. Pursuant to the requirements of Title VI of the Civil Rights Act of 1964, 42 U.S.C. Section 2000 d-1, and Title VIII of the Civil Rights Act of 1968, 42 USC §601, et seq., HUD has promulgated the Neighborhood Development Program Project Selection System, 24 C.F.R. Part 511, a copy of which is annexed hereto as Exhibit A. The regulation provides an institutionalized method by which HUD might make an informed decision on the effect of approving an NDP application on the racial or minority concentration within the locality requesting federal assistance.

4. In accordance with the provisions of 24 C.F.R. Part 511, the NDP application was reviewed and rated by my staff and HUD's Equal Opportunity Section, as to compliance with the Housing Act of 1949, as amended, and the Civil Rights Acts of 1964 and 1968. The Spinney Hill NDP was given an "adequate" rating by HUD as to whether there has been a significant expansion of the supply of standard housing for low and moderate income families in a non-discriminatory way. HUD gave it a "good" rating as to whether the locality had a realistic plan to expand the supply of such housing outside areas of minority concentration. The application was subsequently thoroughly reviewed both technically and legally by HUD and the Spinney Hill NDP was approved by HUD on September 15, 1972. Furthermore, the Spinney Hill NDP was found to meet all the prerequisites of 24 C.F.R. Part 511.

5. All funding for NDP's is done annually, on a one year fiscal basis, known as an "action Year", with applications for funding for each consecutive action year having to be reviewed and approved by HUD (42 USC 1469a (a)(1), 1469c (b)). The Spinney Hill NDP was funded by HUD for the first action year commencing July 1, 1972 and terminating June 30, 1973.

6. HUD approved the overall Spinney Hill NDP and, inter alia, has agreed to pay the cost of acquiring the land for the housing site in question, but given the limited nature of HUD participation in an NDP, HUD does not review and approve the particular structures being built, but HUD does review and approve the general land use. HUD has no financial interest in the housing development being constructed within the NDP, which housing development will be financed by the State of New York under its Mitchell-Lama program, if approved.

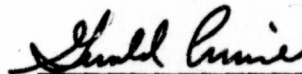
7. A condition precedent to HUD funding of an NDP is that a Workable Program for Community Improvement must be certified by HUD (42 USC 1451 (c), 1469 (a) (1)). In order for the Town of North Hempstead to secure a recertification of its initial Workable Program, HUD had required that the Town make efforts to secure alternate sites for low-rent housing outside areas of minority concentration before it approved the first action year Spinney Hill NDP. To this effect, the Town has submitted, clear and convincing evidence showing that it would construct housing outside of areas of minority racial concentration. (Exhibit A attached hereto.) The Town of North Hempstead Housing Authority has received several proposals for the construction of low-rent housing on sites which are not in areas of minority concentration. The Cuttermill Road site, providing 72 low-rent family apartments, has been approved by the Housing Authority and is located in a predominantly white area of North Hempstead. This site is currently undergoing technical review by HUD. Another site which has been approved and is outside areas of minority concentration is the Port Washington Boulevard site that will provide 28 low-rent apartments.
8. The Spinney Hill NDP was approved by HUD even though it is located within an area of racial concentration. The basis for our approval was the commitment of the Town to construct low-rent housing outside the NDP racially concentrated area. The annexed resolution of the Town, (Exhibit B) the Cuttermill Road and Port Washington Boulevard projects are all evidence of the Town's efforts to fulfill its commitment to low and moderate income housing on a town-wide integrated basis. The Spinney Hill NDP was approved as part of an overall proposal that included additional housing to be constructed outside areas of minority concentration. On information and belief it was taken into consideration that children who would be residing in the Spinney Hill housing site would be attending integrated schools.
9. On information and belief, 150 households consisting of 131 black and 19 white families, and/or individuals, will be displaced by the Spinney Hill NDP. The housing site in question will consist of 100 apartments in addition to the 72 planned at the Cuttermill Road site, and the 28 at the Port Washington Boulevard site, both of the latter sites being outside the Spinney Hill NDP.

This will result in the construction of low and moderate income housing on an integrated basis throughout the Town.

10. On information and belief, the vacancy rate for rental apartments in the Town on North Hempstead is 2.2% and this very low percentage which is prevalent throughout Nassau County is indicative of the vital need for low and moderate income housing which shortage will be somewhat alleviated by the construction of housing on the site in question.

11. HUD in effectuating the provisions of Title VI of the Civil Rights Act of 1964, 42 U.S.C. Section 2000 d-1, has promulgated an administrative complaint procedure. 24 C.F.R. Sections 1.7 et seq. Pursuant to Section 1.7 (b) of this procedure, "any person who believes himself or any specific class of persons to be subjected to discrimination prohibited by this part 1 may ... file with the (Department of HUD) a written complaint." Upon information ^{formal} and belief no such/complaint has been filed by any of the plaintiffs.

12. HUD is aware of the considerable minority community support for the Spinney Hill housing development. The first year NDP application contains a statement of "citizen involvement," which indicates that several community organizations in North Hempstead such as the Great Neck Coalition for Better Housing, whose membership is black, the Economic Opportunity Council (an HEW sponsored poverty group), and the Mount Olive Baptist Church favor the development. In addition, the file contains a petition signed by 700 local residents who favor the Spinney Hill housing complex. The Interfaith Council of Manhasset, a group of churches, which also supports the project, is providing rent subsidies.



Gerald Cruise
Program Manager
Sub-Area 2
New York Area Office
U.S. Department of Housing and
Urban Development

Sworn to before me this 24th day of August, 1973


Jane D. Lollis

Notary Public
31-7586850
Qualified in New York County
Commission expired March 30, 1975

Councilman DeVanzo offered the following resolution and moved its adoption, which resolution was declared adopted after a poll of the members of this Board:

RESOLUTION NO. 297 - 1971

A RESOLUTION EXPRESSING THE INTENT OF THE TOWN BOARD TO PROVIDE SUBSIDIZED HOUSING THROUGHOUT THE TOWN OF NORTH HEMPSTEAD.

WHEREAS, the Town of North Hempstead recognizes the housing crisis existing throughout the nation; and

WHEREAS, the Town of North Hempstead is concerned with the health, welfare, and safety of all citizens of the Town and particularly those with incomes considered to be marginal in this inflationary period; and

WHEREAS, the Town wishes to provide equal housing opportunity for all its citizens,

NOW, THEREFORE, BE IT

RESOLVED that the Town of North Hempstead by this resolution hereby expresses its intent to encourage construction of subsidized housing outside areas of containment for those citizens so qualifying in order to promote freedom of choice and to avert ghettoization.

**Dated: Manhasset, New York
May 13, 1971**

The vote on the foregoing resolution was recorded as follows:

**AYES: Councilmen DeVanzo, Martin and Weinstein and
Supervisor Tully**

NAYS: None.

AFFIDAVIT OF HECTOR H. GAYLE

A 9

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
JULY 21 1973
U.S. DISTRICT COURT E.D.N.Y.

IN THE MATTER OF THE APPLICATION OF:

WILLIAM JONES, CLARENCE BRRIS, MARY HOBBS,
ROBERT CURRY, MRS. EVELYN BROWN, THOMAS
HOLMES, MRS. EPPIE JOHNSON, WILLIAM
HARRIS, MRS. ALBERTHA JOHNSON, MRS. ROSE
WILLIS, MRS. SHARA BROWN, WILLIAM DOBY,
MRS. ELLA HARRIS, GEORGE ROSTKY and
GREAT NECK MANOR CIVIC ASSOCIATION, and
all other similarly situated,

AUG 21 1973
Civil Action
No. 73 C 1104
TIME A.M.
P.M.

Petitioners,

-against-

AFFIDAVIT OF
HECTOR H. GAYLE
IN OPPOSITION
TO ORDER TO
SHOW CAUSE OF
PETITIONERS

ROBERT C. MEADE, JAMES R. WELLS, MICHAEL J.
TULLY, JR., GEORGE C. SOOS, FELIX G.
ANDREWS, JOHN F. McDONALD, ARTHUR C.
BINGHAM, WILLIAM H. RYAN, JR., --TOWN OF
NORTH HEMPSTEAD,

First Respondent,

HECTOR H. GAYLE, Executive Director,
BERNARD CARTLER, Chairman, JOSEPH CECI,
DR. CURTIS KENDRICK, - LOCAL URBAN
RENEWAL PLANNERS,

Second Respondent,

JOHN MAYLOTT and CERALD V. CRUISE, DEPT.
OF HOUSING AND URBAN DEVELOPMENT,

Third Respondent.

STATE OF NEW YORK)
COUNTY OF NASSAU)

ss:

HECTOR H. GAYLE, being duly sworn, deposes
and says the following:

1.) That I am the Executive Director, Town of
North Hempstead, Urban Renewal Agency, the second respondent herein
and I am familiar with the facts and circumstances of the within
proceeding.

2.) That I submit this affidavit in opposition to the Petitioners application for an injunction.

3.) That your deponent has been contacted by many of the Petitioners in this action and they have advised me that they did not consent to their being named as a petitioner in this proceeding. That annexed hereto and made a part hereof and marked "EXHIBITS 1A, 1B and 1C" are signed statements from several of the petitioners disavowing any right to the use of their names as Petitioners.

4.) That upon information and belief the Great Neck Manor Civil Association is composed of a small group of individuals and that Petitioner, William Jones, does not speak for the vast majority of the residents of Great Neck Manor. That the vast majority of said residents are overwhelmingly in favor of the re-development of the so called Spinney Hill area and have so stated their support at two public meetings in 1972 at various private meetings, and by affixing their names to a petition containing over 700 signatures. (See Attached) That included in this group are at least two (2) past presidents of the Great Neck Manor Civic Association. That Great Neck Manor is not part of the area to be re-developed.

5.) (a) I would like to clarify what the Second respondent proposes to accomplish in the "Spinney Hill" area of Manhasset, Town of North Hempstead, Nassau County, New York. We are re-developing a blighted area within the unincorporated area known as Manhasset, which will include commercial, recreational and residential buildings, all geared toward a better social, economic and environmental climate for the residents.

Approximately 80% of the buildings in

the area are classified as "blighted". This deterioration has and will continue to effect the surrounding areas of Spinney Hill and has resulted in overcrowding, dangerous living conditions, etc.

(b) The area in question was not chosen by the Second Respondent. The First Respondent, Town of North Hempstead, and its Planning Board, keeping in mind the criteria set forth by the Department of Housing and Urban Development, have established a policy of encouraging construction, re-construction and re-development of subsidized housing in the Town of North Hempstead. Thus, the sites are chosen by the First Respondent, but only after comprehensive studies to determine that any site will comply, basically, with the prerequisites set forth by the Third Respondent, to wit: That housing must be built to re-integrate the area and not just for low income families; that when you tear down housing you must re-build on a one to one basis; that while you are re-developing an area you must provide opportunities outside of the area on a freedom of choice basis. Obviously, some people will stay and some will move out of the area. The Town passed resolutions to this affect on April 14 and May 13, 1971 and a copy of same are annexed hereto and made a part hereof and marked "EXHIBITS 2A and 2B".

(c) The First Respondent proceeded to implement these resolutions by encouraging the following projects:

- 1) An E.O.C. group in Port Washington formed the Cox Development Corp., and received tax abatements and other assistance from the Town of North Hempstead and constructed 60 units of moderate income family units which were completed in 1971 units erected outside the areas of racial concentration.

(ii) The Town of North Hempstead gave tax abatements and otherwise encouraged a Senior Citizens Corporation to build 110 units of housing, under a N. Y. State Program in New Hyde Park; also outside the area of racial concentration.

(iii) The Town of North Hempstead Housing Authority selected a site in Great Neck on Watermill Road for the construction of 72 units of low income housing. This proposal was submitted to the Department of Housing and Urban Development and ^{its} approval is necessary before the project can be started; this site is outside the area of racial concentration.

(iv) The Town of North Hempstead Housing Authority constructed a Senior Citizen Housing in an area adjacent to the area to be re-developed herein. This area, also known as Spinney Hill, was predominantly black and yet the Senior Citizen Complex has produced a population of 60% black and 40% white.

It can thus be seen that the First Respondent has indeed encouraged a policy of developing housing throughout the Town of North Hempstead in areas that certainly could not be called "areas of racial concentration". I submit that the residents of Spinney Hill do have a choice of housing throughout the Town of North Hempstead and to prevent the re-development of Spinney Hill would amount to our "giving up" on ever improving the blight in the area contrary to the wishes and desires of the residents who desperately want and need this re-development project.

(d) May I respectfully point out to the Court that the Spinney Hill project would contain 10% of low income residents with rent supplements and 80% of middle income residents who will pay approximately \$55.00 per room.

6.) It is interesting to note that our experience, thus far, has indicated a substantial number of inquiries for the Spinney Hill Complex has come from white individuals.

7.) The Hearing mentioned by the Petitioners refers to the North Hempstead Town Board Hearing which took place on June 13, 1972. At this meeting and at a meeting of the North Hempstead Planning Board which took place on May 10, 1972, the overwhelming majority of people and organizations spoke in favor of the Spinney Hill project. These included the NAACP, Manhasset Inter-Faith Council, Manhasset-Great Neck E.O.C., League of Women Voters of Manhasset, Great Neck Chamber of Commerce, Great Neck Community for Human Rights, etc. Very few individuals spoke against the project. In fact, most of the Petitioners were in favor of same. This hearing was preceded by many other meetings with every conceivable group in the community over a substantial period of time.

8.) The Petitioner states that no alternate site was recommended. In light of the foregoing and particularly paragraph 5 herein, this contention is completely without foundation in fact and is baseless.

9.) The Petitioner states that the project would raise taxes. This, despite the fact that the hearings established that 35 new families would be brought into the area with

discernable effect on the school system (11% black) nor the tax base.

10.) Upon information and belief, the Petitioners did not ask for nor request a hearing before the Third Respondent as mandated by law. I submit that this failure to "exhaust administrative remedies" is sufficient grounds for dismissal of the Petitioners complaint and denial of the instant application.

11.) This action is being brought on more than one year after the aforesaid hearing before the North Hempstead Town Board and approval of the resolutions hereinbefore recited. This would certainly also mandate a dismissal of the complaint since the action is not timely made.

12.) May I also respectfully point out to the Court that the Great Neck Committee for Human Rights and the NAACP have provided approximately 50 units of housing outside areas of racial concentration. In addition, within the Great Neck Area, within the past two years, the number of minority persons living in housing and apartment units outside the areas of racial concentration has increased from approximately .65 families to approximately 40 homeowners and approximately 85 families in apartments.

13.) That the Second Respondent does herewith join with the First Respondent in motion for Summary Judgment herein.

WHEREFORE, deponent respectfully requests that the Petitioners application be denied in all respects.

Sworn to before me this
NINTH PUBLIC, STATE OF NEW YORK
August, 1973

Hector H. Gayle
HECTOR H. GAYLE

AFFIDAVIT OF MICHAEL A. COLON

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN THE MATTER OF THE
APPLICATION OF: WILLIAM JONES, et al.,

Petitioners

-against-

ROBERT C. MEADE, et al.

Respondents

Civil Action No.
73 C 1104

AFFIDAVIT

MICHAEL A. COLON, being duly sworn, deposes and says:

1. I am the Assistant Regional Administrator for Equal Opportunity for Region II of the United States Department of Housing and Urban Development (hereinafter "HUD"). I exercise delegated responsibility within the States of New York and New Jersey, the Commonwealth of Puerto Rico and the U.S. Virgin Islands, for the administration of Title VIII of the 1968 Civil Rights Act (42 USC 3601, et seq.), Title VI of the 1964 Civil Rights Act (42 USC 2000d), Executive Orders 11063, 11246, 11375 and 11478, as well as those provisions of Title 24 of the Code of Federal Regulation relating to the implementation of the aforementioned statutes and Executive Orders.

2. On September 11, 1973, my office received a complaint alleging violation of Title VI of the 1964 Civil Rights Act and the Due Process clause of the Fifth Amendment. (Exhibit 1) The complaint, filed by Robert Rivers, Esq. as counsel for the Great Neck Civic Association, alleged that the Spinney Hill Neighbor Development Program would further concentrate minority population within the Spinney Hill community and thus violate plaintiffs' civil rights.

3. An investigation of the complaint was immediately commenced. Meetings were held with the complainants, local redevelopment officials and HUD program personnel. An extensive examination of HUD files regarding the Town of North Hempstead was conducted. (Exhibit 2) The investigation culminated with the submission on November 5, 1973 of a Final Investigation Report. (Exhibit 3) It was the conclusion of the Report that there was no substance to the alleged civil rights violations. It recommended that the Town of North Hempstead be advised to continue proposing housing sites outside areas of minority concentration in accordance with the Town Board's resolution of May 13, 1971. (Exhibit 4)

4. After examining the Report and its exhibits, on November 14, 1974 I concurred with its recommendations and conclusions. The basis for my concurrence was the insistence of HUD's New York Area Office, that the Town Board of the Town of North Hempstead officially commit the community to a policy of providing housing opportunities for minorities within, as well as without, areas of minority concentration.

The Town of North Hempstead has taken affirmative steps to implement such a policy. It has stated its intent to encourage the construction of low and moderate income housing outside areas of minority concentration. Three sites were proposed for the construction of subsidized housing. Two were found to be acceptable by HUD and, with the approval of the Equal Opportunity Division of the New York Area Office, processing of these applications was commenced.

6. It is my opinion, that on the basis of our Final Investigative Report, and the actions already taken by the Town of North Hempstead, there was no substance to the civil rights complaint filed with my office on September 11, 1973.

/
MICHAEL A. COLÓN
Assistant Regional Administrator
for Equal Opportunity

Sworn to before
me this 30th day
of April, 1974

/
NOTARY PUBLIC

Notary
Pub.

Notary Public No. 115

AFFIDAVIT OF GRACE MALONE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

	X	
IN THE MATTER OF THE	:	
APPLICATION OF: WILLIAM JONES, et al.,	:	
	:	
Petitioners	:	
	:	
-against-	:	Civil Action No.
	:	73 C 1104
ROBERT C. MEADE, et al.	:	
	:	<u>AFFIDAVIT</u>
Respondents	:	
	X	

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

GRACE MALONE, being duly sworn, deposes and says:

1. I am the Director of the Equal Opportunity Division of the New York Area Office of the U.S. Department of Housing and Urban Development (hereinafter "HUD"). The area of my jurisdiction encompasses the Town of North Hempstead. I exercise delegated responsibility for insuring participants in HUD funded programs comply with the provisions of the Civil Rights Act of 1964 (42 USC 2000d), the Civil Rights Act of 1968 (42 USC 3601, et seq.), and the various Executive Orders relating to equal housing and employment opportunity.

2. It is the policy of HUD to consider applications for Neighborhood Development program grants expeditiously and on the basis of fair and equitable criteria. In accordance with this policy, each application is rated against numerically weighted criteria and is then ranked against all other applications received during a given period. The application receiving the higher ^{NUMERICAL} ~~numerical~~ rating receives the first opportunity for funding.

3. To operate this system of project selection, a team approach is used which permits full utilization of technical expertise with the reviewing HUD office. In June of 1972, the Equal Opportunity Division participated in the project selection review conducted for the Spinney Hill Neighborhood Development Program (hereinafter "Spinney Hill NDP"). It was on the basis of the Division's examination of the Spinney Hill situation that an "adequate" rating was assigned to the criteria concerning a significant expansion, in a non-discriminatory manner, of the supply of standard housing for low and moderate income families and that a "gold" rating was assigned to the criteria regarding the existence of a realistic plan to expand the supply of such housing outside areas of minority concentration.

4. Our determinations were based on the following factors:

- a) that the Town of North Hempstead's application was in consonance with the goals and objectives of its Workable Program for Community Improvement.
- b) that there were assurances of compliance by the Town of North Hempstead with the provisions of Title VI of the 1964 Civil Rights Act (42 USC 2000d), Title VIII of the 1968 Civil Rights (42 USC 3601, et seq.), and the various Executive Orders relating to equal opportunity in housing and employment.
- c) that the Town of North Hempstead had expressed its official intent to encourage the construction of low and moderate income housing outside areas of minority concentration.
- d) that one of the objectives of the Spinney Hill NDP was to promote equal housing opportunities and to encourage a reduction in the concentration of minority group persons within the Spinney Hill community, in accordance with the affirmative duties imposed on the Secretary of HUD by section 808(e) of the 1968 Civil Rights Act, 42 USC 3608 (e). While the Spinney Hill site will contain housing financed under the New York State Mitchell Lama program, they are equally bound to enforce the Secretary's affirmative duty to seek integration of government assisted housing.
- e) that the applications submitted for the Cuttermill Road and Port Washington Boulevard projects show an intent on the part of the Town of North Hempstead to continue to expand the supply of subsidized housing outside areas of minority concentration.

Grace E. Nisbitt

GRACE NISBITT
Director, Equal Opportunity
Division

Sworn to before
me this 30th day
of April 1974

[Signature]
NOTARY PUBLIC

SUMMARY OF 'HUD' FINAL INVESTIGATIVE REPORTFINAL INVESTIGATION REPORT

Subject: Complaint No. 02-74-09-009-300
 Great Neck Manor Civic Association
 vs. Town of North Hempstead and
 Local Urban Renewal Planners

A. Background:

This complaint was transmitted by letter dated September 6, 1973 from Robert Rivers, Attorney for the complainants. Mr. Rivers had been advised by the Honorable John R. Bartels, U.S. District Court for the Eastern District during the hearing on William Jones et al, Robert O. Meade et al, Hector Gayle et al and John Maylett et al, Civil Action No. 730 1104 to make a formal complaint to the Department of Housing and Urban Development on behalf of his Client, Great Neck Manor Civic Association. (See Exhibit 1) The complaint was received in the DC Division on September 11, 1973.

The complainant alleges in the complaint that the Current Spinney Hill Urban Renewal Project as presently constituted represents an expenditure of Federal funds for the purpose of bringing about racial concentration contrary to the federal guidelinesand that the proposed project is in direct contravention of Section 601 of the Civil Rights Act of 1964. And that the Department of Housing and Urban Development also approved and has commenced to fund the said project. HUD, therefore, has violated the due process clause of the Fifth Amendment or Section 601 of the Civil Rights Act.

The Urban Renewal Program which is the subject of this complaint is the Spinney Hill Neighborhood Development Program of the Town of North Hempstead. Planning for the Spinney Hill neighborhood resulted from a survey made in 1965 by the firm of Raymond and May, entitled "Regional Plan for the Great Neck Peninsula." In the survey, Spinney Hill was identified as a blighted area. The Town of North Hempstead, using the Neighborhood Development Program of HUD, applied for funds to develop the Spinney Hill neighborhood. (See Exhibit 3)

A Neighborhood Development Program is a program to help communities carry out neighborhood development programs of urban renewal in one or more urban renewal areas on the basis of an annual increment. (See Exhibits 4,5) Applicants may be cities, counties, or other municipalities. The locality must have a currently certified Workable Program for Community Improvement. (See Exhibit 6)

The Workable Program for Community Improvement is an official plan of community action which is a prerequisite for certain Federal aids.

Initial certification of a Workable Program is for two years. Recertification is based upon review of progress submitted by the community to HUD every two years. The guidelines for evaluation of Workable Program Applications is set forth in HUD Handbook IPD 7100.1a entitled Workable Program for Community Improvement, dated September 1970. (See Exhibit 7)

Upon receipt of an MDP application by HUD the application is reviewed and evaluated. The MDP Project selection system is set forth in 24 C.F.R. Part 511, and in MDP Handbook Circular C27362.3, entitled "Neighborhood Development Program Project Selection System" dated 7/21/72. (See Exhibit 5)

In the processing of all HUD program application submissions, an Equal Opportunity review is required.

The Equal Opportunity review considers each application for compliance with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968. Executive Order 11063, Executive Order 11246 and the various HUD rules and regulations pertaining to these laws.

An examination of HUD files pertaining to the MDP application from the town of North Hempstead was made in the New York Area Office on October 17, 25, 26, 31. The Spinney Hill MDP Application (First Year) from the town of North Hempstead dated April 12, 1972 was received in the N.Y. Area Office April 17, 1972.

The application was assigned to a Field Representative for Urban Renewal for evaluation. The application was processed through various HUD divisions from May through August 1972. (See Exhibits 8, 8a, & 9)

By letter dated September 15, 1972, HUD notified the town of North Hempstead through its Urban Renewal Agency that the Neighborhood Development Program First Year for Spinney Hill had been approved. (See Exhibit 10)

The Equal Opportunity review of the application for the first year found it acceptable and recommended approval. (See Exhibit 11)

On September 12, 1972, representatives of the Spinney Hill community, accompanied by counsel met with HUD program staff. The group voiced opposition to the Spinney Hill housing site because the site would contribute to racial concentration and would not provide freedom of choice of housing opportunity. The group was assured by HUD that approval of the MDP did not automatically mean that the Spinney Hill housing site was approved. It was explained to the group that any site approval was contingent upon that site meeting site selection criteria which reflects a need for freedom of choice in housing opportunity. The group was also advised that an MDP is an annual arrangement only, and that failure by the applicant to meet stated commitments could result in denial

being withheld for the second year. (See Exhibits 12 & 13)

The Spinnery Hill MDP Application for the second year was received in the N.Y. Area Office on June 27, 1973. The application was assigned to a Field Representative for evaluation. The application was processed through various HUD divisions from June to September 1973. (See Exhibits 14 & 15)

By letter dated September 27, 1973 HUD notified the Town of North Hempstead through its Urban Renewal Agency that their Neighborhood Development Program for the second year had been approved. (See Exhibit 16)

The Equal Opportunity review of the second year application found it acceptable. (See Exhibit 17)

To satisfy the Workable Program prerequisite the Town of North Hempstead submitted its Workable Program dated December 15, 1970 for recertification.

The review made by the Equal Opportunity Division of the N.Y. Area Office dated March 11, 1971 found the Workable Program unsatisfactory in its 20 aspects and recommended that the applicant submit evidence indicating affirmative implementation of its fair housing policy to provide minority persons displaced by any governmental action in North Hempstead the ability to locate outside of, as well as, within areas of minority concentration in the Town. (See Exhibit 18) HUD notified the Town of North Hempstead that several impediments existed to the recertification of its Workable Program. The Town was informed that the impediments existed in the areas of housing need and fair housing. A meeting was requested by HUD with representatives of the Town to resolve the problems. (See Exhibits 19, 20 & 21)

By letter dated June 16, 1971 the Town of North Hempstead submitted to HUD a duly authenticated resolution of the Town Board agreeing to encourage construction of low and moderate income housing outside of areas of racial concentration. (See Exhibits 22 & 23) By letter dated July 2, 1971 the Town of North Hempstead was notified by HUD that its Workable Program had been recertified until July 1, 1973. (See Exhibits 24 & 25) At present North Hempstead's Workable Program application for recertification is being processed in the N.Y. Area Office.

Sites for proposed housing outside of areas of racial concentration were proposed to HUD by the Housing Authority of North Hempstead early in 1972. (See Exhibits 26, 27 & 28)

The proposed sites were inspected by HUD. The Equal Opportunity inspection was made January 20, 1972 and is reported in memo dated March 3, 1972. The EO report covers inspection of three proposed sites. One site was approved, a second site was approved conditionally, a third site was rejected.

The approved site was the Cutter Mill Road site. The site approved conditionally, was Port Washington Boulevard. The EO Division recommended approval of the Port Washington Site on condition that it be developed simultaneously with the Cutter Mill site. The EO report indicated the site recommended for approval would facilitate full compliance with the provisions of Title VI of the Civil Rights Act of 1964 and EO regulations and requirements. (See Exhibits 2). The sites were also evaluated using HUDs Project Selection Criteria. (See Exhibits 30, 31, & 32)

HUD notified the Housing Authority of the Town of North Hempstead that two of the proposed housing sites appeared to meet HUD's criteria for acceptability. Those sites were: the Cutter Mill Road site in Great Neck, and the Port Washington Boulevard site in Port Washington. (See Exhibit 33)

The North Hempstead Housing Authority advertized for proposals in the L.I. Press requesting that submissions be received by January 15, 1973, at 4:45 P.M. (See Exhibit 34) Nine companies submitted proposals. The Housing Authority, after study and review, of the proposals, recommended two of the companies to HUD for approval. (See Exhibits 35 & 36)

The Cutter Mill Road site in Great Neck became the subject of a complaint initiated by the Lakeville Civic Association in Great Neck. The Association's complaint was sent to the office of U.S. Senator Jacob K. Javits. The Senator sent the complaint to the N.Y. Area office by letter dated February 12, 1973. (See Exhibit 37) HUD's reply to Senator Javits dated February 23, 1973 indicated that every aspect of the project has been and is being given careful consideration. The ecological effects of the proposed construction are currently under study by Area Office Staff, with the assistance of the N.Y. State Department of Environmental Conservation. (See Exhibits 38 & 39)

The Cutter Mill Road site in Great Neck became the subject of a complaint initiated by the Udall Core Preservation Committee, Inc. in Douglaston, N.Y. The complaint was filed with the Attorney General, State of New York. By letter dated February 15, 1973. The Attorney General indicated that along with the N.Y. State Department of Environmental Conservation recommendations would be made to HUD on the future use of the property. Included in the correspondence was a list of six alternate sites submitted by the Combined Civic Associations for consideration for housing. (See Exhibit 40) The list of alternate sites were referred to the North Hempstead Housing Authority. By letter dated June 15, 1973, the Housing Authority responded to HUD on the sites proposed by the Combined Civic Associations. The Housing Authority did not find any of the sites acceptable. (See Exhibit 41)

The current status of the Spinney Hill MDP is - Jobco Developers Inc. of Great Neck are proceeding with their development plans. The housing proposed for the site will be under the Mitchell Law program of N.Y. State. (See Exhibit 42)

2. Spinney Hill

The Spinney Hill MDP applications for both first and second from the Town of North Hempstead were submitted to the N.Y. Area Office. The applications were complete and regular. They were processed normally through HUD Divisions, found acceptable and were approved. The Equal Opportunity reviews of these applications found them acceptable and approval was recommended.

In the second year application a waiver was granted to the applicant in order to make certain property acquisitions which would become a commercial site would provide revenues to make it possible to rent the proposed housing at low rents.

To fulfill the necessary prerequisite to MDP, the town of North Hempstead submitted for recertification its Workable Program which was reviewed and approved after the applicant had corrected deficiencies pointed out in the Equal Opportunity review.

The files indicate that the application for Workable Program recertification was processed normally.

The Equal Opportunity staff in the N.Y. Area Office was extremely diligent in exercising its responsibilities under Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, and Executive Order 11063, in the processing of the MDP and Workable Program applications submitted by the Town of North Hempstead, and also in the site selection process.

The Program Staff met with representatives of the Spinney Hill Community who opposed the project on the grounds that the housing would foster racial concentration and would not provide freedom of choice of housing opportunity. HUD assured the group that any housing site approval was contingent upon that site meeting site selection criteria which would reflect the need for freedom of choice in housing.

The Department of Housing and Urban Development was aware of, considered, and acted upon Equal Opportunity concerns raised in The Spinney Hill MDP application, Workable Program recertification application, and sites for housing proposed by The Town of North Hempstead.

The Town of North Hempstead was aware of, considered, and acted upon Equal Opportunity considerations in their Spinney Hill MDP Application, their application for recertification of their Workable Program, and in their selection of sites for low and moderate income housing.

The Housing Authority of North Hempstead did propose three sites for housing which were outside of areas of racial concentration.

The sites were inspected by HUD for compliance with HUD site selection criteria. Two of the three sites were found to be acceptable. The Cutter Mill Road site in Great Neck and the Port Washington Boulevard site in Port Washington.

The Cutter Mill Road site is now the subject of an environmental complaint filed by various community organizations.

HUD is preparing an Environmental Impact Study in conjunction with N.Y. State Department of Environmental Conservation to study the ecological effects of the proposed construction.

Jobco Developers Inc. of Great Neck, the successful developer, is proceeding with development plans for Spinney Hill not withstanding the current litigation involving the project.

Violations of Title VI of the Civil Rights Act of 1964, and Title VIII of the Civil Rights Act of 1968 are not substantiated by this complaint.

C. Recommendations:

The complaint should be closed on the basis that violations of Title VI of the Civil Rights Act of 1964 and of Title VIII of the Civil Rights Act of 1968 are not substantiated.

The Town of North Hempstead should be advised that it is to continue to propose sites for housing outside of areas of racial concentration to provide freedom of choice of housing opportunity for the Spinney Hill project, as resolved in Town Board Resolution 369-1971 dated June 15, 1971.

That one or more of the sites proposed outside of areas of minority concentration when found acceptable, be developed along with the Spinney Hill site.

HUD-99 (4-72) PREVIOUS EDITION MAY BE USED

Memorandum

U.S. DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT

TO : File

DATE: November 7, 1973

IN REPLY REFER TO:

2EC

FROM : Earle W. Fisher, Equal Opportunity Compliance Division

SUBJECT: Complaint No. 02-74-09-009-500
Great Neck Manor Civic Association

I met with Mr. Robert Rivers and Mr. William Jones on Thursday, October 25, 1973. Mr. Jones is the President of the Great Neck Manor Civic Association, complainant in the above entitled complaint. Mr. Rivers is the attorney representing the complainant. The meeting was held in the office of Mr. Rivers located at 217 Post Ave., Westbury, N.Y.

Mr. Rivers, speaking for the complainants, stated that his client has objected to the Spinney Hill project from its beginning. The objection is based upon the belief that the Spinney Hill residents will have no real choice of housing outside of the area of minority concentration.

The complainant indicated that he was aware of the site in Great Neck. However, this site was not going to be acquired because it is tied up with an environmental study. It is the complainant's belief that by the time the environmental problem is resolved, the Spinney Hill project will be completed and the town will be excused as having made an unsuccessful attempt to provide an alternate site.

Mr. Rivers stated that he and his client met with HUD personnel on several occasions to voice objections to the Spinney Hill project. Nevertheless, the project went forward. The last meeting with HUD personnel was held on June 14, 1973. At this time the complainant objected to the project. The project continued. The complainant then filed suit in Federal Court.

Mr. Rivers indicated that the resolution of this matter will occur when the town of North Hempstead acquires title to an alternate site on the Great Neck peninsula outside of the area of minority concentration so that a parallel project to build housing can proceed along with Spinney Hill.

EW
Compliance Specialist

2.1PR

Mr. Hector H. Gayle
Executive Director
Town of North Hempstead
Urban Renewal Agency
80 Roslyn Road
Roslyn Heights, N.Y., 11577

SEP 15 1972

Dear Mr. Gayle:

Subject: Neighborhood Development Program Application
Program No. N.Y. A-29

We are pleased to inform you that we have approved the Neighborhood Development Program (NDP) Application identified above for the year beginning July 1, 1972 and ending June 30, 1973. We have allocated \$1,400,000 as a loan and \$1,300,000 as a capital grant to aid in financing the program.

Enclosed herewith are the approved budget (Form HUD-6275) and the financing plan (Form HUD-6200) with an explanation of the difference between requested and approved amounts. Our approval of this budget authorizes you to incur costs in conformity with the budget on or after July 1, 1972. In the event that the annual funding agreement is not fully executed by that date, costs incurred before the execution of the agreement may be considered as eligible program costs, provided they are incurred in conformity with the provisions of the master agreement and the annual funding agreement.

Also enclosed are the following documents:

1. Three separately bound, undated counterparts of the proposed annual funding agreement and the master agreement. Return two executed, undated counterparts of the agreements to HUD.
2. Three copies of a form of resolution approving and providing for the execution of the agreements. Return two completed copies to HUD.
3. Three sets of minute extracts pertaining to the introduction and adoption of the resolution (Forms HUD-9012, HUD-9013, and HUD-9014). Return two completed sets to HUD.

Corr- spondence Code	ORIGINATOR	CONCURRENCE	CONCURRENCE	CONCURRENCE	CONCURRENCE	CONCURRENCE	CONCURRENCE
Name							
Date							

4. Three copies of proposed Certificate of Recording Officer (Form HUD-9011). Return two copies, duly executed by the official properly authorized to certify to such proceeding and resolution to HUD.
5. Two copies of a form of General Certificate as to the officers and organization of your agency (Form HUD-9009). Return one executed copy to HUD.
6. One copy of a form of Opinion of Attorney (Form HUD-3155e) concerning the proposed agreements. Return one signed and dated opinion of your attorney to HUD.

The proposed agreements must be duly executed or rejected, and this office must be notified of such execution or rejection within 10 days from the date of this letter. If, upon receipt of this letter, it appears that you cannot meet this requirement, please communicate with us immediately, giving the reasons for the necessary delay and indicating the additional time required. Promptly after taking appropriate action on the agreements, please transmit the documents listed above to the Area Counsel.

After the agreements have been duly executed by the government, you will be forwarded one executed counterpart for your records.

The master agreement requires, among other things, that you submit to us plans and specifications for any construction contract you propose to execute and full data respecting the acquisition of any real property before you effect such acquisition in order that we may advise you of our concurrence in your proposed action.

To expedite the program's financing, there are enclosed the following additional documents to be acted upon by your governing body and returned to the Area Counsel:

1. Two copies of a form of Project Loan Note (Form HUD-9117), Return the executed Project Loan Note to HUD and retain the second counterpart.
2. Three copies of the Basic Note Resolution (Form HUD-9101) authorizing execution and issuance of the Project Loan Note for deposit with HUD. Return two completed copies of the Basic Note Resolution to HUD.
3. Three sets of suggested minutes extracts pertaining to the introduction and adoption of the Basic Note Resolution (Forms HUD-9012, HUD-9013, and HUD-9014). Return two completed sets to HUD.

Correspondence Code	ORIGINATOR	CONCURRENCE	CONCURRENCE	CONCURRENCE	CONCURRENCE	CONCURRENCE	CONCURRENCE
Name							
Date							

4. Three proposed Certificate of Recording Officer (Form HUD-9011). Return two copies of the Certificate duly executed by the official properly authorized to certify to such proceeding and Resolution.
5. Two copies of a form of General Certificate as to the officers and organization of your agency (Form HUD-9009). Return one executed copy of the General Certificate to HUD.
6. One copy of Opinion of Attorney (Form HUD-9105). Return signed and dated Opinion of Attorney to HUD.

Sincerely,

Margaret M. Myerson
 Margaret M. Myerson
 Director
 Operations Division

cc:

CF Reading Processing Freifeld Siegel Legal ADP C.O. Herman Felitti
 Audit Giacobino

2.1PR:FREIFELD:AB 8/24/72 Ext.4731

Enclosures

Corr- spondence Code	ORIGINATOR	CONCURRENCE	CONCURRENCE	CONCURRENCE	CONCURRENCE	CONCURRENCE	CONCURRENCE
2.1PR	Freifeld						
Name	Freifeld						
Date	8/15/72						

HUD-713(9-67)

OFFICE RECORD COPY

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

'HUD' EQUAL OPPORTUNITY REVIEW OF SPINNEY HILL NDP SECOND YEAR
DATED JULY 11, 1973 (EXHIBIT 17)

HUD-96 (4-72) PREVIOUS EDITION MAY BE USED

Memorandum

U.S. DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT

TO : Margaret Myerson, Director, 2.1P

DATE: JUN 11 1973

Attn: Gerald Cruise, 2.1PM

IN REPLY REFER TO:

FROM : Grace E. Malone, Equal Opportunity Division

SUBJECT: NDP, Project No. NY A-29 (Year II), Town of North Hempstead, New York

Purpose: To provide an EO review of subject NDP application from the Town of North Hempstead, N.Y.

Persons Contacted: Al Gosey, CD Rep.
Hector Gayle, Executive Director, N.H.R.A.

Recommendations:

Applicant should identify the civic or ethnic affiliations of PAC members as well as the organizational structure of the committee.

Findings:

1. Out of a total population of 134,984, the Town of N. Hempstead has a minority population of approximately 12,184 (6%).
2. Application provides assurances to comply with Title VI (CRA 1964) and Title VIII (CRA 1968) as well as all appropriate Executive Orders.

3. The relocation workload totals 54 families and individuals characterized as follows:

	Individuals	Elderly	Family	Total
Black	28	4	20	52
White		1	1	2
				<u>54</u>

4. Applicant proposes to utilize the following as relocation resources for NDP displacees: private sales and rental throughout the Township, 390 units of state-aided public housing (5% turnover per year), 89 units of Section 221(d)3 housing (7% turnover per year), 110 units of Mitchell-Lama housing of which 20% are for low-income families, 100 units of proposed Mitchell-Lama housing of which 20% will be reserved for low-income tenants who will receive rent supplements.

The latter supplements are to be paid by the sponsor, the Inter-Faith Council of Manhasset.

5. Of the above resources, the following are located outside areas of minority concentration: private market rentals and sales, 66 units of state-aided family public housing, 89 units of Section 221(d)3 housing, 110 units of Mitchell-Lama housing.

EXHIBIT 17

It should be noted that while the proposed Mitchell-Lama housing will be constructed in an area of minority concentration (Parcel 1 NYA-29), it will contribute to the disbursement of low-income and minority family concentration. This will be achieved through a special outreach marketing program designed to achieve a balance of 80% middle income to 20% low income tenants.

It should be further noted that although the housing is located in a minority area, the school district into which it falls is the Great Neck School District which has a minority enrollment of 4%, which is considerably lower than the 11% minority enrollment in the adjacent Manhasset School District. Thus the new construction will also contribute to the desegregation of North Hempstead School system.

6. Application indicates that there is active Citizen Participation of the Spinney Hill Residents in the planning of the NDP through the PAC which meets monthly with the LPA. The 29 member PAC includes the membership of representatives of the Manhasset-Great Neck Coalition for Better Housing, the Economic Opportunity Council, Mt. Olive Baptist Church and First Baptist Church.

7. Applicant fails to describe the organizational structure of the PAC and the ethnic and civic affiliations of its membership.


Director

**'HUD' EQUAL OPPORTUNITY REVIEW OF WORKABLE PROGRAM
APPLICATION, TOWN OF NORTH HEMPSTEAD DATED
MARCH 11, 1971 (EXHIBIT 18)**

EA 31
File
MAR 11 1971

Salish R. Landula, Director
Production Division

Attn: Joseph Monticciolo, Program Manager

Grace E. Malone, Equal Opportunity Division

18

Workable Program Application for Recertification
Town of North Hempstead, New York

Persons contacted:

Michael Leon, HUD Representative, HUD
Constantine Viotos, Principal Assistant for Planning Requirements, HUD
James Fleming, Chief, Planning & Codes, HUD
Hector Ayala, Town of North Hempstead LRA Director
Sol Jacques, Assistant LRA Director

Purpose:

To provide an EO evaluation of subject application for Workable Program recertification from the Town of North Hempstead, N.Y.

Conclusion:

Subject application is not satisfactory in its EO aspects. Specifically, it fails to indicate satisfactory affirmative implementation of its fair housing policy initiated pursuant to Title VIII, Section 808 (e)(5), of the Civil Rights Act of 1968 (Town adopted an Open Housing Ordinance on January 29, 1969).

Recommendations:

The EO Division recommends non-approval of subject application until the applicant submit evidence indicating affirmative implementation of its fair housing policy - particularly in order to provide minority persons displaced by any governmental action in North Hempstead the ability to locate outside of, as well as within, areas of minority concentration in the Town.

Special Note:

In the Workable Program submission, applicant indicates that it is currently planning and programming for two urban renewal projects (NY R-227 and NY R-222). Since the applicant is approaching the execution stage of NY R-227 and has previously stated its commitment to a policy of fair housing, the applicant should submit at this time sufficient evidence in the workable Program application to indicate how the affirmative implementation of such policy is to be exemplified in the NY R-227 relocation plan (See "Findings").

Findings:

A 32

1. The 1969 U.S. Census showed a total 1997 population in the Town of North Hempstead as 219,888, of which 9,824 were non-white. Preliminary 1971 U.S. Census figures show a 1970 total population of 233,137 (no non-white breakdown).
2. Application for Workable Program recertification from the Town of North Hempstead was originally submitted to HUD in early 1971. ED review of that submission on March 6, 1973 recommended approval, but noted deficiencies in the applicant's minority citizen representation and fair housing programs. Due to apparently numerous areas of deficiency, HUD subsequently found the application non-approvable and returned it to the applicant.
3. A HUD team visited the applicant on November 12, 1974, to assist the applicant in fulfilling HUD requirements. The participating ED Specialist provided technical assistance to the applicant regarding affirmative compliance with EO standards, particularly affirmative implementation of its fair housing policy initiated pursuant to Title VIII, Section 808 (c)(3), of the CRA of 1968.
4. In the application subsequently submitted to HUD, the applicant indicates that it has increased minority citizen representation on its CAC from 2 of 22 members to 6 of 33 (membership lists provided). Applicant also provides a list of the NY R-227 33 members, indicating a minority representation of 32 out of 37 members on such list.
5. Applicant has submitted adequate documentation (through CAC and HUD meeting minutes) of active involvement of minority representatives in HUD-related activities in North Hempstead.
6. The applicant states that 813 low and moderate income families in its jurisdiction are currently residing in substandard housing, of which 78.5 are minority.
7. Applicant indicates that in the past certification period 13 families (all minority) were displaced by public action (mainly by a Turnkey housing development) and were relocated to standard housing.
8. Applicant anticipates that in the next certification period 33 families (24 minority) will be displaced by public action (first stage of NY R-227) and outlines an elaborate action program to provide relocation resources for public displacement in North Hempstead.
9. Regarding the relocation plan for the NY R-227 project that applicant mentions in the Workable Program submission, however, an ED review of such project on 12/1/69 states that "no clear...explanation is given affirming and describing...a program...to prevent local minority group geographical containment through the execution of NY R-227," and recommends that the Renewal Assistance Administration "require a clear...explanation from the (applicant) demonstrating how NY R-227 will not effect discriminatory containment" (Exhibit A).

10. The Board of North Haverland adopted an "Open Housing Ordinance" on January 23, 1967. On October 21, 1968, the Town Supervisor had stated his approval of the development of low-rent housing "throughout the Township," adding that:

"The Town is cooperating with the Housing Authority and non-profit corporations in the selection of sites for families who are in the low and moderate income groups. Further the Town will assist in accomplishing such housing through the acceptance of a service charge in lieu of taxes to the extent required to assist in making such projects financially feasible" (Exhibit 2).

11. In its last application, the applicant indicated that it plans to implement its fair housing policy primarily through the development of 200 units of rent supplement housing in the "Sand Pits" area of Port Washington (within the Township) - an area that is definitely not one of minority concentration.

Development of such housing in the "Sand Pits" area could provide displacement from the NY R-227 (Roslyn Park) and NY R-222 (Lincoln Hill - now under review) project areas (two areas of minority concentration) the ability to locate in portions of areas of minority concentration. No other significant relocation housing project of any size is proposed by the applicant for urban renewal districts (NY R-227, NY R-222 review of relocation sites - Exhibit 3).

The 200 rent-supplement units to be developed in the "Sand Pits" area are part of a 1,200-unit "Planned Unit Development" proposed for the Port Washington area. The action program described by the applicant in the Township Program submission states as follows, under the heading "Housing":

"The Town Board's directive to the Planning Board to study and report on Planned Unit Development concept for the Sand Pits area in Port Washington, and the Master Plan adopted by the Planning Board which projects 100 residential units as part of an overall neighborhood design will both go a far way towards solving some of the problems of racial imbalance.

"As projected in the preceding item on housing, 20% of the projected units will be allocated to families of low income through rent supplement program. Experience has shown that the low income families who are in the greatest need of housing are also minority families" (Exhibit 4).

However, it is unrealistic to assume that such relocation housing would be available for NY R-227 (Roslyn Park) project displacement. This project is about to go into execution (Part II is currently under HUD review.) Sand-mining is continuing in the portion of the "Sand Pits" designated for housing, the northern portion. As for the southern portion the applicant states that:

"The Town has recently passed a Planned Industrial Park Zone for the Southern Portion of the Port Washington Sand Pits, where mining has been completed and an area of an estimated 163 acres will be available for development as a high quality Industrial Park" (Exhibit 5).

On November 14, 1970, the Town Supervisor directed the Town Planning Board to "immediately...complete (its) review of Planned Unit Development" in the Town and report back to the Town Board "within 30 days" (Exhibit F).

On December 20, 1970, the Town Planning Board reported its progress to the Town Supervisor, concluding that: "Our intention is to complete the work on the Planned Unit Development study at the earliest possible date, and it has been assigned first priority. We shall report to the Town Board immediately on its completion" (Exhibit G).

In the recent Workable Program submission, the applicant states that the Planning Board's "study of Planned Unit Development in the Sand Pits area in Port Washington... is anticipated by February 15, 1971" (Exhibit H). According to the LPA Director, such study has not yet been submitted.

Execution of NY 1-227 (Roxlyn Park) is imminent. Developing rent-supplement housing on the proposed "Sand Pits" site is far from imminent. The necessary development steps that would have to be passed to allow such housing to be realistically considered as a relocation resource remain undone, and the applicant displays little haste in pursuing them.

Grace E. Molnar

Director
Equal Opportunity Division
New York Area Office

cc:CF, ED File, Singer,

2.1E:SINGER:me 2/9/71

'HUD' LETTER TO TOWN OF NORTH HEMPSTEAD RE RECERTIFICATION OF WORKABLE PROGRAM DATED APRIL 14, 1971 (EXHIBIT 19)



REGION II
REGIONAL OFFICE
NEW YORK, NEW YORK

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
AREA OFFICE
120 CHURCH STREET, NEW YORK, NEW YORK 10007

(EXHIBIT 19)

APR 14 1971

AREA OFFICES
Buffalo, New York
Camden, New Jersey
New York, New York
Newark, New Jersey
San Juan, Puerto Rico

IN REPLY REFER TO:

DP-1

Mr. Michael J. Tully, Jr.
Town of North Hempstead
Town Hall
Manhasset, New York 11030

Dear Mr. Tully:

Subject: Recertification of Workable Program

In order to complete our review of the Town's Workable Program application, we feel it is necessary that representatives of the Department meet with you and other officials and representatives of the Town, such as the Town Council, the Planning Board, the Housing Authority and the Urban Renewal Agency. Several impediments to the recertification of the Workable Program presently exist, specifically in the areas of housing needs and fair housing.

We are most anxious to engage in a workshop type of meeting with the officials and representatives of the Town to discuss possible actions that may be taken to resolve the existing problems. We are willing to meet either in the day or in the evening at your convenience.

We would appreciate that the date of meeting be prior to April 30, 1971.

Sincerely,

Joseph Monticciolo
Joseph Monticciolo
Program Manager

cc:
Hector Gayle

**'HUD' LETTER TO HECTOR GAYLE DATED JUNE 10, 1971 RE APPLICATION UNDER
OPEN LAND EXCEPTION/WORKABLE PROGRAM (EXHIBIT 20)**

COMMUNITY PLANNING: Town of North Hempstead (Unincorporated)

DEPARTMENT OF

AREA OFFICE

120 CHURCH STREET, NEW YORK, NEW YORK 10007

(EXHIBIT 20)

For
City
New
New
San

IN REPLY TO
2-12-71



JUN 10 1971

Mr. Hector H. Gayle
Executive Director
Town of North Hempstead Urban Renewal Agency
60 Roslyn Road
Roslyn Heights, New York 11577

Dear Mr. Gayle:

Subject: Inquiry regarding Renewal Application under Open Land
Exception or Section 741(b) of the Housing Act of 1970

This will reply to your letter of April 30, 1971.

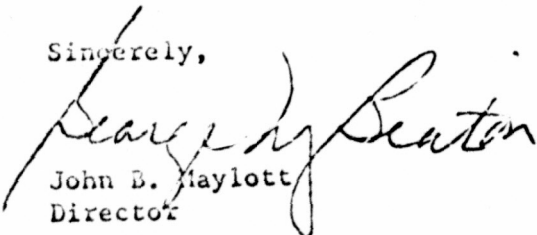
With regard to your inquiry concerning Section 741(b) of the Housing Act of 1970, there is enclosed for your information a draft of a Circular covering the provision and applicability of this Section. It is emphasized that this is a draft and subject to change. It is forwarded solely for the purpose of providing you with general information on the new amendment.

Of course, the information regarding the Open Land Exception Project approach is contained in the Urban Renewal Handbook under Sections RHA 7205.1, Chapter 2, pages 6 and 7 and RHA 7214, Chapter 3, Section 1, Page 2.

The question of using urban renewal treatment for a project area that would incorporate a group of non-contiguous sites is presently under study by our legal staff and we are not yet in a position to advise you regarding this matter. However, we hope to have a decision shortly and will advise you as soon as possible.

It is our feeling with regard to the Town's Application for recertification of its Workable Program that the resolution of the Town Board presented to Mr. S. William Green at the meeting of May 20, 1971, be amended to incorporate the following: The Town agrees to utilize all resources available to encourage construction of low and moderate income housing outside areas of racial concentration for residents of all races and economic mixes, as well as apply for Section 741B or Open Land Exception programs if necessary. The incorporation of this change in the Board's resolution will be deemed a satisfactory commitment of the Town, made in good faith to the provision of needed low and moderate income housing outside areas of racial containment. This will remove the major impediment to recertification of the Workable Program for the Town of North Hempstead.

Sincerely,


John B. Maylott
Director

Enclosure

'HUD' LETTER TO TOWN OF NORTH HEMPSTEAD DATED JUNE 15, 1971
RE WORKABLE PROGRAM RECERTIFICATION (EXHIBIT 21)

A 38

JUN 18 1971

2.1SQ

Mr. Michael J. Tully, Jr.
Town of North Hempstead
Town Hall
Manhasset, N. Y. 11030

Dear Mr. Tully:

Subject: Recertification of Workable Program

It is our belief that this office will be able to re-certify the Town's workable program upon the enactment by the Town Board, and the submission thereof, of an amended resolution which includes the language specified in our letter of June 10, 1971 to Mr. Hector H. Gayle, Executive Director, Town of North Hempstead Urban Renewal Agency.

Sincerely,

John B. Maylott
Director

cc:

2.1SQ Cent. Files
2.1SD Beaton
2.1KMU Cruise
2S Green
2.1FM Leen
2.1E Malone
2.1M Monticciolo
Reading
2.1SQ Vlatos

2.1SQ:VIATCS:LP

21

Correspondence Code	ORIGINATOR	CONCURRENCE	CONCURRENCE	CONCURRENCE	CONCURRENCE	CONCURRENCE	CONCURRENCE
	2.1SQ						
Name	Vlatos						
Date							



EXHIBIT 22

OFFICE OF THE DEPUTY SUPERVISOR
TOWN HALL
MANHASSET, N. Y. 11030

AL M. MAHONEY

June 16, 1971

Mr. John B. Maylott, Director
Department of Housing & Urban Development
120 Church Street
New York, New York 10007

Attention: Mr. George Boston

Dear Mr. Maylott:

I am enclosing the duly authenticated resolution, as amended, which was unanimously adopted by the Town Board of North Hempstead at its scheduled meeting of June 15.

In view of the fact that this is the final document required for recertification of the Town's Workable Program, we look forward to a most expeditious response.

Sincerely,

Donald M. Mahoney
Donald M. Mahoney
Deputy Supervisor

DM:LB
Enc.

Councilman DeVanzo offered the following resolution and moved its adoption, which resolution was declared adopted after a poll of the members of this Board:

RESOLUTION NO. 297 - 1971

A RESOLUTION EXPRESSING THE INTENT OF THE TOWN BOARD TO PROVIDE SUBSIDIZED HOUSING THROUGHOUT THE TOWN OF NORTH HEMPSTEAD.

WHEREAS, the Town of North Hempstead recognizes the housing crisis existing throughout the nation; and

WHEREAS, the Town of North Hempstead is concerned with the health, welfare, and safety of all citizens of the Town and particularly those with incomes considered to be marginal in this inflationary period; and

WHEREAS, the Town wishes to provide equal housing opportunity for all its citizens,

NOW, THEREFORE, BE IT

RESOLVED that the Town of North Hempstead by this resolution hereby expresses its intent to encourage construction of subsidized housing outside areas of containment for those citizens so qualifying in order to promote freedom of choice and to avert ghettoization.

Dated: Manhasset, New York
May 13, 1971

The vote on the foregoing resolution was recorded as follows:

AYES: Councilmen DeVanzo, Martin and Weinstein and Supervisor Tully

NAYS: None.

PLANNING REVIEW OF WORKABLE PROGRAM APPLICATION
TOWN OF NORTH HAMPSHIRE DATED JUNE 22, 1971
(EXHIBIT 23)...

EXHIBIT 23

A 41

cc: CF, Cruise, Green, Davis/Bathong, Leen, Monticciolo, Vlatos,
Lapadula, Yulish, Reading, Washington, Office

John D. Weylert, 2.15

June 22, 1971

Constantine Vlatos, 2.15Q

Town of North Hampshire, New York - Recertification of Workable
Program for Community Improvement

We recommend that the town's workable program application, dated December 15, 1970, be recertified as a result of the Town Board's action in adopting a resolution expressing their commitment to... encourage construction of low and moderate income housing outside areas of racial concentration for residents of all races and economic status.... We believe that this resolution shows that the Town Board is sincerely interested in providing a free and open choice of housing for all persons affected by HUD programs for which a certified workable program is a prerequisite.

We note that the planning board has made a negative finding regarding the planning and programming element of the workable program. The finding deficiencies cited by planning were partially based on the fact that the Department of Planning Board's estimate of the need for the publicly owned housing units in the Town of North Hampshire. Subsequent to the planning review, this office received a letter from the Board which stated that only 1500 publicly owned housing units were needed in the town. The remaining 1800 units are owned in the incorporated communities which are located in, but not under the jurisdiction of the Town of North Hampshire. As a result of this clarification, we believe that some of the deficiencies noted by the planning board have been resolved.

In order to resolve the remaining deficiencies stated by planning in their report, we recommended that the program management staff and the planning staff meet with town officials to provide technical advice and assistance regarding the planning portion of the application. We expect that this meeting be scheduled as soon as possible so that the town may be able to resolve the deficiencies prior to the mid-period review.

2.15Q:VLATOS:rcn]

Constantine Vlatos

Special Assistant for Planning
Requirements

Copy at Date	2.15Q	2.15Q	2.15Q	2.15Q	2.15Q	2.15Q	2.15Q
1	16-157						
2	16-157						

OFFICIAL RECORD COPY

Exhibit 23

'HUD' LETTER TO TOWN OF NORTH HEMPSTEAD DATED JULY 2, 1971
RE-CERTIFYING WORKABLE PROGRAM (EXHIBIT 24)

A 42

REGION II
REGIONAL OFFICE
NEW YORK, NEW YORK

AREA OFFICE
120 CHURCH STREET, NEW YORK, NEW YORK 10007

(EXHIBIT 24)

Elmhurst, New York
Camden, New Jersey
New York, New York
Newark, New Jersey
San Juan, Puerto Rico

IN REPLY REFER TO:
2.150

JUL 2 1971

Mr. Michael J. Tully, Jr.
Town Supervisor
Town of North Hempstead
Town Hall
Manhasset, N. Y. 11030

Dear Mr. Tully:

We are pleased to inform you that the Department of Housing and Urban Development has recertified the Town of North Hempstead's Workable Program for Community Improvement. As indicated on the enclosed Determination and Certification, this recertification is effective until July 1, 1973. Under separate cover, we are sending you a Certificate suitable for framing and public display, which has been issued evidencing the recertification of your program.

Your Community established definitive local goals and action programs in all elements of the Workable Program in its submission dated December 15, 1970, as well as the various documents, maps and letters submitted therewith. At the time of the mid-period review to be held on or about July 1, 1972, this office will evaluate the progress being made in meeting local goals, in implementing action programs and in carrying out the Town's commitment to fair housing as expressed in the Town Board's resolution of June 15, 1971.

In addition, the town needs to take action on or before December 31, 1971, in revising local housing and building codes as well as related codes to conform to nationally recognized model codes and to eliminate local restrictions on the use of nationally acceptable materials and methods of housing construction. In this regard we are enclosing a copy of Metropolitan Planning and Development Notice No. 4 which sets forth this Department's policy regarding the adoption of codes for the Workable Program for Community Improvement.

2

Your next application for Workable Program Recertification should be submitted not later than 60 days prior to the expiration date of your current Certification. If at that time, or any time during the course of this two-year certification period, assistance of any nature is desired, please contact this office.

We wish you every success in your Program.

Sincerely,

John D. Maylott
John D. Maylott
Director

With Hempstead Ny EXHIBIT 30

PROJECT SELECTION CRITERIA QUESTIONNAIRE / PORT WASHINGTON SITE (EXHIBIT 30)

PROJECT SELECTION CRITERIA QUESTIONNAIRE

Provide all the information requested below for housing proposed under any of the following programs: Section 235(i), rent supplement, Section 236, or Low-Rent Public Housing. For public housing, the information requested may not yet be known, particularly with relation to intent; please provide appropriate statements of intent as described in exhibit A of this form in lieu of the information requested. The information or statements of intent provided will be used to evaluate requests for priority registration, early feasibility or reservation of contract authority for Section 235(i), rent supplement or Section 236 projects and applications for low-rent public housing to determine their compliance with project selection criteria developed by the Department.

LOCALITY MAP PORT WASHINGTON - 28 units

Attach a map designating project site(s), outlining the section of the city in which the site is located. (In the case of public housing where site(s) is/are not yet been known, designate possible sites and the sections in which they are located which are reasonably certain to receive approval under the project selection criteria). Section is defined as the project neighborhood and the surrounding neighborhoods, i.e., at least those neighborhoods contiguous to the project neighborhood. Where reasonable to do so, sections may be defined in terms of census tracts. For designated sections, identify the following factors: zoning, land use, availability of adequate utilities, racial and ethnic group concentrations, proximity to existing or proposed community facilities, public transportation lines and major thoroughfares, employment concentrations, other existing or proposed housing for low- and/or moderate-income families, urban renewal areas selected or proposed, and other such items as may be pertinent.

1. NEED FOR LOW(ER) INCOME HOUSING

- (a) Describe how the proposed housing responds to the needs of the low(er) income households to be served, in terms of price, number of bedrooms and structure type.

Based on applications on hand for 2, 3 and 4 bedrooms Town House apartments to be built at less than prototype costs.

- (b) Indicate whether the housing will serve as a relocation resource for families displaced or to be displaced by governmental action.

Yes

2. MINORITY HOUSING OPPORTUNITIES

If site(s) is/are known, provide the following information about location and identify on map: if site(s) is/are unknown, submit appropriate statements of intent using the format indicated in exhibit A of this form. Location of site is: (Check applicable item.)

- (a) ☐ outside existing areas of minority concentration and will provide housing opportunities for minorities.

- (b) ☒ in a racially-mixed area and the project will have no significant effect on the proportion of minority to non-minority families.

- (c) ☐ in an urban renewal area.

Minimum types of housing and price ranges included in renewal plan

A 44

Is the area expected to serve a racially varied population? Explain.

Is execution of plan proceeding without unusual delays? Are any delays expected?

- (d) in our near an area of minority concentration, but project is necessary to meet overriding housing needs which cannot otherwise feasibly be met in the housing market area. Attach documentation, based on relevant racial, socio-economic, or other data and information, supporting overriding housing need and unavailability of alternate housing or project sites. For example: land costs for properly zoned land in other acceptable locations of the housing market area are too high to accommodate such housing; the only other acceptable locations are in parts of the housing market area which are or are becoming areas of minority concentration; or the residents of the project area or prospective residents of the proposed housing have expressed a desire for the project to be built in or near that area because they have strong cultural, social, or economic ties to it. A need based on strong cultural, social, or economic ties should be documented by citizens' participation in local Cities planning, or resolutions or other communications from citizens' associations or other broadly based neighborhood groups. The attached map may be used as part of this documentation.

3. IMPROVED LOCATION FOR LOW(ER) INCOME FAMILIES

If site(s) known, provide the following information; if site(s) unknown, submit appropriate statement(s) of intent.

Project will be located in a neighborhood which is: (check where applicable.)

- (a) ☒ in a section containing little or no subsidized housing.

66 units under State Subsidy

- (b) comparable in terms of neighborhood facilities and services to neighborhoods consisting largely of unsubsidized housing. Discuss.

- (c) accessible to job opportunities. Specify travel time and cost (if by public transportation) to major sources of employment. Identify transportation routes and employment centers on map.

4. RELATIONSHIP TO ORDINARY GROWTH AND DEVELOPMENT

A 45

If the following information is known, please provide; if not, provide appropriate statement(s) of intent.

- (a) Explain relationship of proposed housing to officially approved land use or other development plans.

The proposed housing will be consistent with planning commission land used plan.

- (b) Indicate whether proposed project will be located in a neighborhood undergoing improvement via Urban Renewal, Model Cities, or other similar federal, state or local programs.

- (c) Indicate whether proposed housing will implement a policy adopted by the local governing body for providing for and dispersing housing for low- and moderate-income families. Discuss.

- (d) If housing is to be located in a community without officially approved plans, indicate whether the location of the proposed housing is consistent with sound growth patterns (i.e., that adequate community facilities and utilities are available or planned; if land-use patterns are such that the residential character of the neighborhood will be protected, etc.) Describe.

5. RELATIONSHIP OF PROPOSED PROJECT TO PHYSICAL ENVIRONMENT OF THE NEIGHBORHOOD

If the following information is known, please provide; if not, provide appropriate statement(s) of intent.

- (a) Discuss whether the proposed housing is such that it will enhance the physical environment of the neighborhood through factors such as elimination of blighting influences, exceptional architectural treatment, improved land-use patterns. *In accordance with Town, Planning Commission and Housing Authorities requirements, unique architectural treatment will be given to the site to enhance the physical environment.*

- (b) Will the proposed project create a well-planned neighborhood in an undeveloped area with a minimum adverse ecological impact? Explain.

- (c) Indicate whether site is subject to adverse environmental influences (e.g. noise, smoke, frequent flooding, proximity to railroads, airports, or similar hazards). Specify such influences and identify on map.

- (d) Note any unique natural phenomena which may be affected by the proposed project, e.g. wildlife preserves. (Identify on map.)

- (e) Discuss whether the land-use plan, structural type, and density levels are compatible with those existing or planned for the neighborhood.

5. EFFICIENT PRODUCTION

For proposals under Section 235(1), Section 236, or rent supplement, specify relevant experience of your staff or other staff available to you. (Include names of individuals) which will indicate your ability to develop the proposed project, in terms of:

See Appendix

(a) Speed of production

A 46

(b) Quality

(c) Cost

(d) Applicant is an LHA with no units under management. (Check if applicable.)

PROJECT POTENTIAL FOR CREATING MINORITY EMPLOYMENT AND BUSINESS OPPORTUNITIES

(a) State and discuss goals or efforts to be made for providing training and/or employment for minorities in any phase of project development, e.g. planning, site development, construction, maintenance, management.

Discussion is already under way to include minority training and employment. Arrangements have already been made through the Union Trades Council which has more than 50 unions under its membership for training of minority groups.

(b) State and discuss goals or efforts to be made for utilizing business concerns owned in substantial part by minorities in any phase of project development.

PROVISIONS FOR SOUND HOUSING MANAGEMENT (Not applicable to Section 235(i)) (Not required for Local Housing Authorities with no units under management)

(a) Discuss past management experience, if any.

(b) (1) For proposals under Section 235(i), Section 236, or rent supplement, describe management plan or proposal in terms of applicable housing management issuances.

See appendix

(2) For Local Housing Authorities with units under management, discuss efforts made to encourage the development of well-managed and well-maintained projects and to foster good relations between tenants and management and with the surrounding community.

PROJECT SELECTION CRITERIA QUESTIONNAIRE, MANHASSET SITE (EXHIBIT 31)

PROJECT SELECTION CRITERIA QUESTIONNAIRE

Provide all the information requested below for housing proposed under any of the following programs: Section 235(i), rent supplement, Section 236, or Low-Rent Public Housing. For public housing, the information requested may not yet be known, particularly with relation to sites; please provide appropriate statements of intent as described in exhibit A of this form in lieu of the information requested. The information or statements of intent provided will be used to evaluate requests for priority registration, early feasibility or reservation of contract authority for Section 235(i), rent supplement or Section 236 projects and applications for low-rent public housing to determine their compliance with project selection criteria developed by the Department.

LOCALITY MAP Manhasset - 26 units

Attach a map designating project site(s), outlining the section of the city in which the site is located. (In the case of public housing where site(s) is/are not yet known, designate possible sites and the sections in which they are located which are reasonably certain to receive approval under the project selection criteria). Section is defined as the project neighborhood and the surrounding neighborhoods, i.e., at least those neighborhoods contiguous to the project neighborhood. Where reasonable to do so, sections may be defined in terms of census tracts. For designated sections, identify the following factors: zoning, land use, availability of adequate utilities, racial and ethnic group concentrations, proximity to existing or proposed community facilities, public transportation lines and major thoroughfares, employment concentrations, other existing or proposed housing for low- and/or moderate-income families, urban renewal areas selected or proposed, and other such items as may be pertinent.

1. NEED FOR LOW(ER) INCOME HOUSING

- (a) Describe how the proposed housing responds to the needs of the low(er) income households to be served, in terms of price, number of bedrooms and structure type.

Based on applications on hand for 2, 3 and 4 bedrooms Town House apartments to be built at less than prototype costs.

- (b) Indicate whether the housing will serve as a relocation resource for families displaced or to be displaced by governmental action.

Yes

2. MINORITY HOUSING OPPORTUNITIES

If site(s) is/are known, provide the following information about location and identify on map: if site(s) is/are unknown, submit appropriate statements of intent using the format indicated in exhibit A of this form. Location of site is: (Check applicable item.)

- (a) ☐ established program of minority recruitment and will provide housing opportunities for minorities.

- (b) ☐ in a racially-mixed area and the project will have no significant effect on the proportion of minority to non-minority families.

- (c) ☒ in an urban renewal area.

Discuss types of housing and price ranges included in renewal plan.

Is the area expected to serve a racially varied population? Explain.

Is execution of plan proceeding without unusual delays? Are any delays expected?

- (d) in our near an area of minority concentration, but project is necessary to meet overriding housing needs which cannot otherwise feasibly be met in the housing market area. Attach documentation, based on relevant racial, socio-economic, or other data and information, supporting overriding housing need and unavailability of alternate housing or project sites. For example: land costs for properly zoned land in other acceptable locations of the housing market area are too high to accommodate such housing; the only other acceptable locations are in parts of the housing market area which are or are becoming areas of minority concentration; or the residents of the project area or prospective residents of the proposed housing have expressed a desire for the project to be built in or near that area because they have strong cultural, social, or economic ties to it. A need based on strong cultural, social, or economic ties should be documented by citizens' participation in model Cities planning, or resolutions or other communications from citizens' associations or other broadly based neighborhood groups. The attachment map may be used as part of this documentation.

3. IMPROVED LOCATION FOR LOW(ER) INCOME FAMILIES

If site(s) known, provide the following information; if site(s) unknown, submit appropriate statement(s) of intent.

Project will be located in a neighborhood which is: (check where applicable.)

- (a) in a section containing little or no subsidized housing.
- (b) ☒ comparable in terms of neighborhood facilities and services to neighborhoods consisting largely of unsubsidized housing. Discuss.
- (c) accessible to job opportunities. Specify travel time and cost (if by public transportation) to major sources of employment. Identify transportation routes and employment centers on map.

4. RELATIONSHIP TO ORDERLY GROWTH AND DEVELOPMENT

A 49

If the following information is known, please provide; if not, provide appropriate statement(s) of intent.

(a) Explain relationship of proposed housing to officially approved land use or other development plans.

(b) Indicate whether proposed project will be located in a neighborhood undergoing improvement via Urban Renewal, Model Cities, or other similar federal, state or local programs.

The proposed housing is located on the southern portion of the Spinney Hill Urban Renewal plan and will be consistent to the overall neighborhood improvement.

(c) Indicate whether proposed housing will implement a policy adopted by the local governing body for providing for and dispersing housing for low- and moderate-income families. Discuss.

(d) If housing is to be located in a community without officially approved plans, indicate whether the location of the proposed housing is consistent with sound growth patterns (i.e., that adequate community facilities and utilities are available or planned; if land-use patterns are such that the residential character of the neighborhood will be protected, etc.) Describe.

5. RELATIONSHIP OF PROPOSED PROJECT TO PHYSICAL ENVIRONMENT OF THE NEIGHBORHOOD

If the following information is known, please provide; if not, provide appropriate statement(s) of intent.

(a) Discuss whether the proposed housing is such that it will enhance the physical environment of the neighborhood through factors such as elimination of blighting influences, exceptional architectural treatment, improved land-use patterns. *In accordance with Town, Planning Commission and Housing Authorities requirements, unique architectural treatment will be given to the site to enhance the physical environment.*

(b) Will the proposed project create a well-planned neighborhood in an undeveloped area with a minimum adverse ecological impact? Explain.

(c) Indicate whether site is subject to adverse environmental influences (e.g. noise, smoke, frequent flooding, proximity to railroads, airports, or similar hazards). Specify such influences and identify on map.

(d) Note any unique natural phenomena which may be affected by the proposed project, e.g. wildlife preserves. (Identify on map.)

(e) Discuss whether the land-use plan, structural type and density levels are compatible with those existing or planned for the neighborhood.

6. EFFICIENT PRODUCTION

For proposals under Section 235(f), Section 236, or rent supplement, specify relevant experience of your staff or other staff available to you. (Include names of individuals) which will indicate your ability to develop the proposed project, in terms of:

See appendix

(a) Speed of production

A 50

(b) Quality

(c) Cost

(d) ~~Applicant is an LHA with no units under management.~~ (Check if applicable.)

7. PROJECT POTENTIAL FOR CREATING MINORITY EMPLOYMENT AND BUSINESS OPPORTUNITIES

(a) State and discuss goals or efforts to be made for providing training and/or employment for minorities in any phase of project development, e.g. planning, site development, construction, maintenance, management.

Discussion is already under way to include minority training and employment. Arrangements have already been made through the Union Trades Council which has more than 50 unions under its membership for training of minority groups.

(b) State and discuss goals or efforts to be made for utilizing business concerns owned in substantial part by minorities in any phase of project development.

3. PROVISION FOR SOUND HOUSING MANAGEMENT (Not applicable to Section 235(i)) (Not required for Local Housing Authorities with no units under management)

(a) Discuss past management experience, if any.

(b) (1) For proposals under Section 235(i), Section 236, or rent supplement, describe management plan or proposal in terms of applicable housing management issuance

See appendix
(2) For Local Housing Authorities with units under management, discuss efforts made to encourage the development of well-managed and well-maintained projects and to foster good relations between tenants and management and with the surrounding community.

PROJECT SELECTION CRITERIA QUESTIONNAIRE, GREAT NECK SITE (EXHIBIT 32)

PROJECT SELECTION CRITERIA QUESTIONNAIRE

Provide all the information requested below for housing proposed under any of the following programs: Section 235(i), rent supplement, Section 236, or Low-Rent Public Housing. For public housing, the information requested may not yet be known, particularly with relation to sites; please provide appropriate statements of intent as described in exhibit A of this form in lieu of the information requested. The information or statements of intent provided will be used to evaluate requests for priority registration, early feasibility or reservation of contract authority for Section 235(i), rent supplement or Section 236 projects and applications for low-rent public housing to determine their compliance with project selection criteria developed by the Department.

LOCALITY MAP GREAT NECK- 60 units

Attach a map designating project site(s), outlining the section of the city in which the site is located. (In the case of public housing where site(s) is/are not yet known, designate possible sites and the sections in which they are located which are reasonably certain to receive approval under the project selection criteria). Section is defined as the project neighborhood and the surrounding neighborhoods, i.e., at least those neighborhoods contiguous to the project neighborhood. Where reasonable to do so, sections may be defined in terms of census tracts. For designated sections, identify the following factors: existing, land use, availability of adequate utilities, racial and ethnic group concentrations, proximity to existing or proposed community facilities, public transportation lines and major thoroughfares, employment concentrations, other existing or proposed housing for low- and/or moderate-income families, urban renewal areas selected or proposed, and other such items as may be pertinent.

1. NEED FOR LOW(ER) INCOME HOUSING

- (a) Describe how the proposed housing responds to the needs of the low(er) income households to be served, in terms of price, number of bedrooms and structure type.

Based on applications on hand for 2, 3 and 4 bedrooms Town House apartments to be built at less than prototype costs.

- (b) Indicate whether the housing will serve as a relocation resource for families displaced or to be displaced by governmental action.

Yes

2. MINORITY HOUSING OPPORTUNITIES

If site(s) is/are known, provide the following information about location and identify on map: if site(s) is/are unknown, submit appropriate statements of intent using the format indicated in exhibit A of this form. Location of site is: (Check applicable item.)

- (a) ☒ outside existing areas of minority concentration and will provide housing opportunities for minorities.

- (b) ☐ in a racially-mixed area and the project will have no significant effect on the proportion of minority to non-minority families.

- (c) ☐ in an urban renewal area.
Discuss types of housing and price ranges included in renewal plan.

A. 524

Is the area expected to serve a racially varied population? Explain.

Is execution of plan proceeding without unusual delays? Are any delays expected?

- (d) _____ in our near an area of minority concentration, but project is necessary to meet overriding housing needs which cannot otherwise feasibly be met in the housing market area. Attach documentation, based on relevant racial, socio-economic, or other data and information, supporting overriding housing need and unavailability of alternate housing or project sites. For example: land costs for properly zoned land in other acceptable locations of the housing market area are too high to accommodate such housing; the only other acceptable locations are in parts of the housing market area which are or are becoming areas of minority concentration; or the residents of the project area or prospective residents of the proposed housing have expressed a desire for the project to be built in or near that area because they have strong cultural, social, or economic ties to it. A need based on strong cultural, social, or economic ties should be documented by citizens' participation in model Cities planning, or resolutions or other communications from citizens' associations or other broadly based neighborhood groups. The attached map may be used as part of this documentation.

3. IMPROVED LOCATION FOR LOW(ER) INCOME FAMILIES

If site(s) known, provide the following information; if site(s) unknown, submit appropriate statement(s) of intent.

Project will be located in a neighborhood which is: (check where applicable.)

- (a) ☒ in a section containing little or no subsidized housing.
- (b) _____ comparable in terms of neighborhood facilities and services to neighborhoods consisting largely of unsubsidized housing. Discuss.
- (c) _____ accessible to job opportunities. Specify travel time and cost (if by public transportation) to major sources of employment. Identify transportation routes and employment centers on map.

(a) Speed of production

A 53

(b) Quality

(c) Cost

~~Applicant is an LHA with no units under management.~~ (Check if applicable.)

PROJECT POTENTIAL FOR CREATING MINORITY EMPLOYMENT AND BUSINESS OPPORTUNITIES.

- (a) State and discuss goals or efforts to be made for providing training and/or employment for minorities in any phase of project development, e.g. planning, site development, construction, maintenance, management.

Discussion is already under way to include minority training and employment.

Arrangements have already been made through the Union Trades Council which has more than

- 50 unions under its membership for training of minority groups.*
(b) State and discuss goals or efforts to be made for utilizing business concerns owned in substantial part by minorities in any phase of project development.

PROVISION FOR SOUND HOUSING MANAGEMENT (Not applicable to Section 235(1)) (Not required for Local Housing Authorities with no units under management)

- (a) Discuss past management experience, if any.

- (b) (1) For proposals under Section 235(1), Section 236, or rent supplement, describe management plan or proposal in terms of applicable housing management issuances.

See appendix

- (2) For Local Housing Authorities with units under management, discuss efforts made to encourage the development of well-managed and well-maintained projects and to foster good relations between tenants and management and with the surrounding community.

A 54

4. RELATIONSHIP TO ORDERLY GROWTH AND DEVELOPMENT

If the following information is known, please provide; if not, provide appropriate statement(s) of intent.

- (a) Explain relationship of proposed housing to officially approved land use or other development plans.

The proposed housing will implement a policy adopted by the local governing body for providing for and dispersing housing for low-and moderate-income families.

- (b) Indicate whether proposed project will be located in a neighborhood undergoing improvement via Urban Renewal, Model Cities, or other similar federal, state or local programs.

- (c) Indicate whether proposed housing will implement a policy adopted by the local governing body for providing for and dispersing housing for low- and moderate-income families. Discuss.

- (d) If housing is to be located in a community without officially approved plans, indicate whether the location of the proposed housing is consistent with sound growth patterns (i.e., that adequate community facilities and utilities are available or planned; if land-use patterns are such that the residential character of the neighborhood will be protected, etc.) Describe.

5. RELATIONSHIP OF PROPOSED PROJECT TO PHYSICAL ENVIRONMENT OF THE NEIGHBORHOOD

If the following information is known, please provide; if not, provide appropriate statement(s) of intent.

- (a) Discuss whether the proposed housing is such that it will enhance the physical environment of the neighborhood through factors such as elimination of blighting influences, exceptional architectural treatment, improved land-use patterns.

In accordance with Town, Planning Commission and Housing Authorities requirements, unique architectural treatment will be given to the site to enhance the physical environment.

- (b) Will the proposed project create a well-planned neighborhood in an undeveloped area with a minimum adverse ecological impact? Explain.

- (c) Indicate whether site is subject to adverse environmental influences (e.g. noise, smoke, frequent flooding, proximity to railroads, airports, or similar hazards). Specify such influences and identify on map.

- (d) Note any unique natural phenomena which may be affected by the proposed project, e.g. wildlife preserves. (Identify on map.)

- (e) Discuss whether the land-use plan, structural type and density levels are compatible with those existing or planned for the neighborhood.

6. EFFICIENT PRODUCTION

For proposals under Section 235(1), Section 236, or rent supplement, specify relevant experience of your staff or other staff available to you. (Include names of individuals) which will indicate your ability to develop the proposed project, in terms of:

See appendix

LETTER FROM U.S. SENATOR JACOB JAVITS TRANSMITTING COMMUNITY
COMPLAINT RE. CUTTER MILL SITE DATED FEBRUARY 12, 1973
(EXHIBIT 37)

A 55

EXHIBIT 37

JACOB K. JAVITS
U.S. SENATOR

United States Senate

WASHINGTON, D.C. 20510

REGIONAL OFFICES:

Room 511

110 East 45th Street
New York, N.Y. 10017

Room 222

FEDERAL OFFICE BUILDING
111 West Huron Street
Buffalo, New York 14202

Room 512

U.S. POST OFFICE AND COURTHOUSE
445 Broadway
Albany, New York 12242

February 12, 1973

Honorable Joseph D. Monticciolo
Deputy Director
New York Area Office
Department of Housing and Urban Development
125 Church Street
New York, New York

Dear Joe:

I am enclosing herewith a copy of a letter which I have recently received from Mr. Frank C. Marcellino, Corresponding Secretary of the Lakeville Civic Association, Great Neck, New York.

Mr. Marcellino raises several questions about the proposed low-income housing project in Great Neck which is to be funded through the Department of Housing and Urban Development. I would appreciate your looking into this matter and advising my New York Office as to any information you may have which answers the charges raised by Mr. Marcellino.

With best wishes,

Sincerely,

Jacob K. Javits, U.S.S.

JKJ:phk

Exhibit 37

LAKEVILLE CIVIC ASSOCIATION

GREAT NECK, NEW YORK 11020

January 11, 1973

Senator Jacob Javits
110 West 45th Street
New York, New York

Dear Senator Javits:

The enclosed statement of the Lakeville community request your assistance and good offices in the cancellation of the proposed plan of North Hempstead, N.Y. for inside housing project on the property owned by the Citizens Water Company, Veterans Park, Great Neck.

The reasons for our opposition to this project are as follows:

- 1) Because it would not reveal the deterioration of the adjoining, much larger Garance apartment complex. This would in turn definitely threaten the stability, tranquility and housing values of the entire surrounding area.
 - 2) Because we believe the location to be so sub-marginal as to be untenable as a housing site.
 - 3) Because construction on the site would destroy the ecology of the Wall's Cove wetlands area.
 - 4) Because our neighborhood Lakeville school is overcrowded.
 - 5) Because other more suitable sites have been bypassed.
- We citizens and taxpayers believe this to be a well-intentioned, well-conceived project which goes against the goals of the local income housing program.

Very truly yours,

Frank C. Macellano

Frank C. Macellano
Chairman
Lakeville Civic Association

Encls.
FOUR

The New York Area Office staff has also given careful scrutiny to another aspect of the neighborhood that the project will affect, and that is its school facilities. Recent trends in the Great Neck School District indicate a declining enrollment. The rated capacity of the Lakeville Elementary School is 725 students and current enrollment, 651. The Cuttermill Elementary School has a rated capacity for 175 students and an enrollment of 57. It is anticipated that the net additional enrollment in these schools due to the proposed housing will be approximately 18 children, still not enough to push enrollment over capacity. Junior and Senior High School enrollment is also below the maximum rated capacity and will so remain.

Site selection in the Town of North Hempstead was not an easy matter for the local housing authority. A number of available sites may not have met equal opportunity requirements based on Title VI of the Civil Rights Act of 1964. However, the Authority knew of the Citizen's Water Company site and felt it most nearly met all its development requisites, so the Authority started development to its potential.

I recognize that this is a controversial project, but I can assure you that all objections are being considered and the whole project carefully analyzed.

If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

Joseph B. Monticciolo
Deputy Area Director

cc:

J. B. Mayhew
J. B. Monticciolo
M. Heenan

N. Anolik
B. Layton - Wash.
Chen file
JRS - file
N. Kemp. file
Anolik/Schwartz/ Dec 2/23/73

TO FROM DATE	CONCURRENCE	CONCURRENCE	CONCURRENCE	CONCURRENCE	CONCURRENCE
Name					
Date					

HUD-713 (2-7) Use previous edition

OFFICIAL RECORD COPY

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

A 58
HUD LETTER OF REPLY TO SENATOR JAVITS RE
COMMUNITY COMPLAINT DATED FEBRUARY 23, 1973

(EXHIBIT 38)

February 23, 1973

Handwritten signature: J. Cruise

EXHIBIT 38

2.18A

Senator Jacob K. Javits
119 East 45 Street
New York, N.Y. 10017

Dear Senator Javits:

Thank you for your letter of February 12, 1973 transmitting Mr. Frank C. Marcelino's correspondence concerning the location of assisted housing in the Town of North Hempstead.

As you are aware, every aspect of this project has been given and is being given careful attention. When analyzing the possible impact on the neighborhood, it was noted that the proposed 72 unit project would not overwhelm the area with low income tenants. In fact, this project is designed to convert tenements into eventual centers of their particular units. Just south of the Citizen's Water Company site is a 602 unit privately owned middle income apartment complex. These units are physically separated from the site by a forty foot strip and a parking lot. Pedestrian and vehicular traffic leaving the proposed housing should not interfere with the private development as the project will be on the east side of the site. A long held cultural tradition in the neighborhood, particularly, a noise study revealed in data indicating that the area would not be subjected to excessive low residential noise levels. The proposed site is physically separated from the surrounding area by both natural and man-made boundaries. A preliminary Area Office study reveals that the Citizen's Water Company site is desirable for housing because of its proximity to shopping, public transportation and schools.

To determine the ecological effects which would result from construction on the proposed site, an environmental action is currently being conducted. Engineers, planners and an environmental specialist from this office, with the assistance of the New York State Department of Environmental Conservation, have been assigned to examine the area. Preliminary findings show that the Nassauville stream which flows on the property should be cleared if Nassauville Cove is to be saved. The stream's slope and low erosion must be removed and current sources of pollution arrested. This information along with all the relevant final environmental study's results will be incorporated as design requirements into any plans approved by this department for site development, should the low income project go forward.

ORIGINATOR	CONCURRENCE	CONCURRENCE	CONCURRENCE	CONCURRENCE	CONCURRENCE

Exhibit 38

MEMO OF INTERVIEW WITH MANUEL OVANDO (EXHIBIT 39)

HUD-96 (4-72) PREVIOUS EDITION MAY BE USED

MemorandumU.S. DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT

TO : File

DATE: November 7, 1973

IN REPLY REFER TO:
ZDC

FROM : Marie M. Fisher, Equal Opportunity Compliance Division

SUBJECT: Complaint No. 02-74-09-007-300
Great Neck Manor Civic Association

I met with Manuel Ovando, Community Planning and Management Representative in his office at the N.Y. Area Office located at 120 Church Street, New York City.

Mr. Ovando stated that he is conducting an environmental impact study of the proposed Sitter Hill site for the N.Y. Area Office. Mr. Ovando could not say when his study would be completed.

[Signature]
Compliance Specialist

LETTER FROM N.Y. STATE DEPARTMENT OF LAW RE COMMUNITY COMPLAINT
REGARDING CUTTER MILL SITE DATED FEBRUARY 15, 1973 (EXHIBIT 40)



STATE OF NEW YORK

EXHIBIT 40

LEG. J. LEFKOWITZ
ATTORNEY GENERAL

DEPARTMENT OF LAW

STATE OFFICE BUILDING

80 CENTRE STREET

NEW YORK, N.Y. 10013

TELEPHONE: 212-438-7567

PHILIP WEINBERG
ASSISTANT ATTORNEY GENERAL
IN CHARGE OF
ENVIRONMENTAL PROTECTION
BUREAU

February 15, 1973

Manuel Ovando
Community Planning & Management
Representative
Department of Housing & Urban
Development
120 Church Street
New York, New York 10007

Re: Proposed Housing Site off
Cutttermill Road in Great
Neck, Long Island

Dear Mr. Ovando:

The Attorney General has received a complaint from the Udalls Cove Preservation Comm. Inc., Inc., 3107 Beach Road, Douglaston, New York 11554, and others, alleging that the above site is unsuitable for housing and that such housing would inevitably have an adverse environmental impact on the surrounding areas such as the Udalls Cove Marsh.

In conjunction with the State Department of Environmental Conservation, the Attorney General intends to make recommendations to HUD on the future use of this property. Such recommendations will be based on the State's own evaluation of the environmental impact of such a project together with the feasibility of alternate sites.

DEPT. HSG. & URB. DEV.

FEB 15 1973

NYAO
REC'D

Exhibit 40

To: Manuel Ovando
Re: Proposed Housing Site, etc.

February 15, 1973

-2-

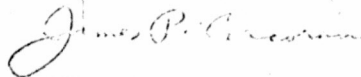
If at that point the State determines that there is no valid basis for objecting to the construction of housing on the present site, we would be prepared to evaluate the various development plans and suggest modifications which would afford greater protection to the natural environment of the area.

We have received a list of six alternate sites deemed by the complainants to be more suitable for housing than the present location near Ullals Cove. I am forwarding the list to you for consideration at the appropriate time.

We will advise you as to how your department intends to proceed in this matter and how we can best assist you in making your determinations.

Very truly yours,

LOUIS J. D'AMONTE
Attorney General
By



JAMES P. CORCORAN
Assistant Attorney General

JPC:rob
Enc.

P.S. The Combined Civic Associations referred to in the enclosure include the Nassau Road Civic Assoc., Lakeville Civic Assoc., Westmoreland Civic Assoc., Terrace Apts. Tenants Assoc., and The Little Neck Bay Civic Assoc.

cc. Ernest L. Cefrances, Jr.

Feb. 10, 1973

Whom It May Concern:

We, the Combined Civic Associations find the present site chosen by the North Hempstead Housing Authority to be ecologically damaging and the cost to build prohibitive, including additional costs for access roads, approach easements, etc. Other sites available and ultimately more suitable have been bypassed. They are as follows:

1. North side of Hicks Lane 300 feet east of Middle Neck Rd. Great Neck
Realty sign on property
2. Southeast corner of Ravine Rd. and East Shore Rd. Great Neck
3. Flancone Rd. and Manhasset Ave.
Large tract land - block square
Manhasset
4. Northeast corner of Willis Ave. and Hampton Albertson
Realty sign on property
5. Northeast corner of Willis Ave.
64,000 sq. ft. lot
Borderline of Albertson and Williston Neck
Realty sign on property
6. Southern part of Sperry property bounded by Union Turnpike in the unincorporated area of the Town of North Hempstead as checked on the official town map

We have been informed by the North Hempstead Housing Authority that they must be invited into incorporated areas. Are these villages exempt from Federally financed proposed projects? If they are not, we are positive we could list for you many more appropriate sites not on watershed property.

Sincerely,

Members of
Combined Civic
Associations

Combined Civic Associations
Chairman: [illegible]

Home of Quinto Fata 30 Nassau Road, Great Neck, N.Y. 11021
Tel: 516 435 0444

DECISION AND ORDER OF HONORABLE JOHN R. BARTELS DATED JUNE 26, 1974
GRANTING SUMMARY JUDGMENT TO FEDERAL RESPONDENT AND DISMISSING
COMPLAINT

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- x

In the Matter of the Application of
WILLIAM JONES, CLARENCE DERRIS,
MARY HOBBS, ROBERT CURRY, MRS. EVELYN
BROWN, THOMAS HOLMES, MRS. EPPIE
JOHNSON, WILLIAM HARRIS, MRS. ALBERTHA
JOHNSON, MRS. ROSE WILLIS, MRS. SHARA
BROWN, WILLIAM DOBY, MRS. ELLA HARRIS,
GEORGE ROSTRY and GREAT NECK MANOR
CIVIC ASSOCIATION, and all others
similarly situated,

73 C 1104

Petitioners,

- against -

MICHAEL E. TULLY, JR. and TOWN OF
NORTH HEMPSTEAD,

First Respondent,

HECTOR H. GAYLE, Executive Director,
BERNARD GARTLER, Chairman, JOSEPH CECI,
DR. CURTIS KENDRICK, Local Urban
Renewal Planners,

Second Respondent,

JAMES E. LYNN, Secretary, Department
of Housing and Urban Development,

Third Respondent.

----- -x

Appearances:

ROBERT RIVERS, Esq.
Attorney for Petitioners
287 Post Avenue
Westbury, New York

Appearances (continued):

RICHARD J. OSTERNDORF, Esq.
Attorney for First Respondent
Town Hall
Manhasset, New York 11030

RALPH A. NAPPI, Esq.
Attorney for Second Respondent
33 Main Street
Port Washington, New York 11050

HONORABLE DAVID G. TRAGER
United States Attorney
Attorney for Third Respondent

By: HAROLD FRIEDMAN, Esq.
Assistant United States Attorney

BARTELS, D. J.

In the last few years federal courts have been faced with mounting problems in determining whether the United States Department of Housing and Urban Development ("HUD") has violated the Civil Rights Act of 1964 and 1968 in site selections for locations for federally assisted housing projects in areas of racial concentration. Here we are concerned with the racial and socioeconomic effects of the construction of a proposed one hundred unit low- and moderate-income housing project ("the Project") on a site selected by HUD in "Spinney Hill", a predominantly black area within the Town of North Hempstead, Nassau County, State of New York ("the Town"). Petitioners,

several individuals who reside in Spinney Hill, and the Great Neck Manor Civic Association,^{1/} an association of property owners in Spinney Hill, have instituted this class action against the Town, the Local Urban Renewal Agency, established by the Town as its Local Public Agency under the Housing Act of 1949, 42 U.S.C. § 1451(b), ("The LPA"), and HUD to enjoin the construction of the Project, contending that the construction of the Project will perpetuate racial concentration in the Spinney Hill area in violation of § 601 of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, and § 808 of the Civil Rights Act of 1968, 42 U.S.C. § 3608. Jurisdiction is predicated upon 28 U.S.C. §§ 1331, 1343.

Introduction

In order to obtain funds from HUD, the Town Board must make an acceptable application. In this case the Town Board determined that the Spinney Hill area is a "substandard and unsanitary" area appropriate for urban renewal, and has designed the Project to replace existing structures, 80% of which the Town Board has determined to be "blighted," with commercial, residential and recreational buildings. HUD committed itself to fund the Spinney Hill Project under its Neighborhood Development Program ("NDP"), which authorizes funding of such projects in annual increments. As finally

approved by HUD, the Project involves Federal grants and loans for site acquisition only, with support for actual construction to be provided under New York State's "Mitchell-Lama" Program, N.Y. Private Housing Finance Law § 10 (McKinney's, supp. 1973). Petitioners allege that the Town and the LPA have deliberately selected the predominantly black Spinney Hill area to locate the Project, which is also expected to be predominantly black, and have made no attempt to acquire non-segregated sites within the Town for the location of additional low- and moderate-income housing projects. It becomes necessary, therefore, to examine the factors, procedures and information utilized by HUD in approving the Spinney Hill^o site for assistance under the Neighborhood Development Program.

According to the Neighborhood Development Program Handbook, an application for assistance will not pass beyond the preliminary screening stage unless there is an affirmative finding for each of the following six prerequisites: (1) Workable Program; (2) Local General Plan (official documents concerning land use, zoning ordinance and map, subdivision regulations to serve as a comprehensive guide for the

physical development of the locality as a whole); (3) Civil rights (evidence of compliance with Title VI of the 1964 Civil Rights Act and Executive Order 11246); (4) Relocation Requirements (compliance with Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970); (5) A-95 Coordination (procedure involving review of applications under the Office of Management and Budget Circular A-95); and (6) Housing Component (absence of any known barrier which would preclude all assisted housing sites in the project area from receiving at least an adequate rating on the Housing Production and Mortgage credit project selection system).

The Town's Workable Program

Under the provisions of the Housing Act of 1949, 42 U.S.C. § 1451, before any Federal urban renewal assistance may be made available in a community, including that under the Neighborhood Development Program, that community must submit to HUD an acceptable "workable program for community improvement" including "an official plan of action . . . for effectively dealing with the problem of urban slums and blight within the community and for the establishment and preservation of a well-planned community with well-organized

residential neighborhoods of decent homes and suitable living environment for adequate family life." HUD's initial acceptance or certification of a community's workable program is valid for only two years and recertification is predicated on a review of the progress submitted by the community to HUD biannually thereafter. Under § 1451 HUD is required to determine that (1) the workable program is of sufficient scope and content to furnish a basis for evaluation of the need for the urban renewal project, and (2) the project is in accordance with the program. Under the Civil Rights Act of 1968, 42 U.S.C. § 3608(d)(5), HUD is also required to administer the programs relating to housing and urban development "in a manner affirmatively to further the policies" of the Act against discrimination.

As required by its workable program procedure, HUD exercised supervision and control over the Town's efforts to provide non-segregated low- and moderate-income housing to avoid the perpetuation of racial concentration. For example, in March, 1971, before the Spinney Hill NDP was proposed, HUD withheld recertification of the Town's workable program pending the submission of evidence of its efforts to provide relocation housing outside racially concentrated areas for those

displaced by governmental redevelopment programs, a concept of scatter-site housing. Only after the Town Board unanimously passed a resolution expressing its intent "to utilize all resources available to encourage construction of low- and moderate-income housing outside areas of racial concentration for residents of all races and economic mixes . . . " ^{2/} was recertification granted by HUD. Pursuant to this commitment the Town Board proposed three sites to HUD, two of which, the Cutter Mill and Port Washington Boulevard sites, were approved in March, 1972. The third proposed project, for twenty-six low income units in the Spinney Hill area, was rejected by HUD's Equal Opportunity Division because it was in an area of racial segregation. The Cutter Mill site is located in a predominantly white neighborhood and will accommodate approximately seventy low-income sites, while the Port Washington Boulevard site will accommodate approximately twenty-eight low-income units in an area adjacent to an existing predominantly black housing project. The two projects were approved as a package by HUD with the less costly Port Washington Boulevard site making the more costly Cutter Mill site feasible. In January, 1973, a challenge to the Cutter Mill project was raised by a community group based primarily

on its environmental impact which is presently under study both by HUD and by the New York State Department of Environmental Conservation.

The Spinney Hill Application

The current Spinney Hill Project, approved for its first year of funding under the Neighborhood Development Program in September, 1972, called for acquisition of nine acres of land and two hundred housing units to be funded under the federally subsidized housing program, 12 U.S.C. § 1715z-1, for which HUD allowed the Town a \$1,400,000 loan and a \$1,300,000 capital grant for first year site acquisition. Because of a moratorium on funding of federally subsidized housing in 1973, the Project was modified in the first year to obtain other sources for financing. Accordingly, the second year NDP application was adjusted to accommodate only one hundred units of housing to be financed under the "Mitchell-Lama" program, NYPHFL § 10 (McKinney's supp. 1973). The Town's plan provided that the land originally acquired in the first year, together with an additional fourteen parcels funded by HUD, would be sold to a developer in a package upon the condition that the profits on the commercial development would be employed to reduce rents on the one hundred units

of housing. Further rent supplements were to be added from a fund already contributed by various local organizations, including the Inter-Faith Council of Manhasset. Pursuant to this application, HUD approved a \$1,175,000 grant and a \$1,612,643 loan to the Town for acquisition of the fourteen parcels.

Before the Spinney Hill NDP was approved, and pursuant to the requirements of the Housing Act of 1949, 42 U.S.C. § 1455(d), public hearings were held, first by the Town's Planning Board in May, 1972, and then by the Town Board in June, 1972. Public notice was given in advance of the Town Board hearings through posting of notices in conspicuous places about the Town and by publication in The Great Neck Record on June 1st and June 8th, 1972. Various speakers at the hearings recounted the conditions of overcrowding, crime, and drug use which were present in the redevelopment area and expressed their views in favor of the Project, explaining how the Project would alleviate these conditions. At these hearings the attorney for the petitioners and petitioner Jones on behalf of the Great Neck Manor Civic Association^{3/}

opposed the Project. A number of other area residents and

representatives of local civic and civil rights organizations including the local chapter of the NAACP and the Manhasset Inter-Faith Council, spoke in favor of the Project. A petition signed by 700 area residents supporting the Project was also presented to the meeting. After hearing the voice of the area residents, the Town Board unanimously approved the Project on June 13, 1972 in compliance with 42 U.S.C. § 1469(c)(1).

HUD's Evaluation

The Town's application for funding under the Neighborhood Development Program was evaluated under the procedures set out in HUD's NDP Project Selection System, 24 CFR §§ 511 et seq., and was approved for its first year of funding in September, 1972. Under this system, applicants for assistance under the Neighborhood Development Program, such as the Town of North Hempstead, are required to submit "acceptable assurances of compliance with the Civil Rights Act of 1964, . . . and HUD title VI regulations 24 CFR Part I, . . ." as a prerequisite to further consideration of their application. 24 CFR § 511.4(c). Once this and other prerequisites have been met, HUD is obligated to evaluate pursuant to § 511.20

the degree to which the locality in which the project is to be located "has a realistic plan to expand the supply of standard low- and moderate-income housing in a nondiscriminatory way outside areas of concentration of economically disadvantaged or minority citizens."

The affidavits of HUD officials clearly establish that the Project was evaluated under this selection system pursuant to which HUD determined that (1) the prerequisite of "acceptance assurance of compliance with the Civil Rights Act of 1964, . . . " 24 CFR § 511.4(c), was met by the expressed commitment of the Town Board to equal opportunity in housing as evidenced by its resolution of June 15, 1971 and its proposal of the Cutter Mill and Port Washington Boulevard sites; (2) the Town deserved an "adequate" rating upon the question of whether there had been a significant expansion of the supply of standard housing for low- and moderate-income families in a nondiscriminatory way, and a "good" rating on the question of whether it had a realistic plan for the expansion of such housing outside areas of racial concentration, 24 CFR § 511.20; (3) one of the objectives of the Spinney Hill NDP was to promote equal housing opportunities and to encourage a reduction in the concentration of minority group

persons within the Spinney Hill community; (4) the Project received the support of numerous community groups and many area residents who expressed their support at the two public meetings held by the Town in 1972 and by the petition supporting the Project signed by 700 area residents; (5) a pressing need existed for such housing in the Town as evidenced by an extremely low vacancy rate of 2.2%; and (6) the Project was part of a Town-wide effort to expand low- and moderate-income housing on an integrated basis.

In this evaluation HUD utilized the reports of the Equal Opportunity Division of its New York Office made in connection with both the first and second year Spinney Hill NDP applications which included data on the racial composition of the Town and the Spinney Hill area. The report on the second year application identified specific areas proposed by the Town for relocation outside areas of racial concentration of the 54 persons to be displaced from their homes by construction of the Project.^{4/} It also found that the Project would contribute to dispersement of low income and minority family concentration in the area by its marketing program which was designed to achieve a balance of low income to 20% low income occupancy.

Complaint and Investigation

After approval of the first year NDP application in September, 1972, petitioners had 90 days to file a complaint under HUD's administrative complaint procedure, 24 CFR § 1.7. They did not do so. Instead, petitioners waited until July, 1973, to file their complaint in this action, which came before this Court for the first time in August, 1973, at which time they sought a preliminary injunction to halt construction of the Project. At the Court's suggestion, HUD's attorney agreed to waive the 90-day period within which such a complaint could be filed,^{5/} and the matter was adjourned until a formal complaint could be made to HUD and a further investigative report filed by it. Such a complaint was filed with HUD by petitioners on September 6, 1973, and HUD accordingly conducted a second thorough review of the Project. HUD's regional Equal Opportunity Office, in investigating the complaint, conducted meetings with the complainants, local redevelopment officials and HUD program personnel, and reviewed HUD files. The investigative report filed on November 5, 1973, concluded that there was no merit in the complaint, noting that both HUD and the Town were "aware of, considered, and acted upon Equal Opportunity concerns" with respect to

the Spinney Hill NDP and the Town's workable program for community improvement in general. The report found that the Town had taken affirmative steps to implement a policy of equal housing opportunity in spite of the fact that the construction of the Cutter Mill site was delayed pending the study of its environmental effects. This report was further reviewed and concurred in by HUD's Assistant Regional Administrator of Equal Opportunity, on the basis of the insistence of HUD's New York office that the Town Board officially commit the Town to a policy of equal housing opportunity and the Town's affirmative steps to implement that policy.

Standard of Review

The Civil Rights Act of 1964, which prohibits racial discrimination under programs receiving Federal financial assistance, 42 U.S.C. § 2000d, provides that agency action taken with respect thereto^{6/} "shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds . . . ,"
42 U.S.C. § 2000d-2. Since HUD's actions in approving the Project under its Project Selection System, 24 CFR §§ 511 et seq., and in rejecting the complaint under 24 CFR § 1.7, constitute department action relative to the anti-discrimination

provisions of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, the standard for judicial review, as in similar actions taken by HUD, is provided by the Administrative Procedure Act, 5 U.S.C. §§ 702, 706.

The review is not a de novo or a substantial evidence review, but a thorough, probing in-depth review. Camp v. Pitts, 411 U.S. 438, 93 S.Ct. 1241 (1973). The standard of review for informal agency action such as in the present case is enunciated in Citizens to Preserve Overton Park v. Volpe, 401 U.S. 402, 91 S.Ct. 814 (1973), where the Supreme Court, speaking through Mr. Justice Marshall, applied the arbitrary and capricious criteria of Section 706(2)(A) in reviewing the administrative action of the Secretary of the Department of Transportation, stating that:

"To make this finding the court must consider whether the decision was based on a consideration of the relevant factors and whether there has been a clear error of judgment . . . [citation of cases] . . . Although this inquiry into the facts is to be searching and careful, the ultimate standard for review is a narrow one. The court is not empowered to substitute its judgment for that of the agency."
401 U.S. at 416.

The Second Circuit in Schicke v. Romney, 474 F.2d 309 (1973), following the mandate of Overton Park, applied the same test in reviewing the action of the Secretary of HUD relative to the conversion-substitution of certain tracts of public lands. There Judge Lumbard observed, at p. 314-15:

" . . . Since neither the substantial evidence test nor de novo review is authorized, a reviewing court is limited to setting aside informal agency action that does not comply with constitutional, statutory, or procedural requirements or is 'arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.' "

It is incumbent upon the reviewing court to be assured that the Secretary of HUD, in administering the programs and activities relating to housing and urban development, did so "in a manner affirmatively to further the policies" of the Civil Rights Act, which means that HUD in choosing site locations for funding must avoid racial discrimination. See 42 U.S.C. § 3608(d)(5). A leading case in the factual context of the present one is Shannon

436 U.S. 20 (1978)

referred to the interrelationship of the Housing Act

of 1949 and the 1964 Civil Rights Act, and reversed the lower court in dismissing a complaint challenging HUD's action in approving a change from an urban renewal plan contemplating owner occupancy to a plan contemplating rental dwellings with rent supplement assistance, upon the ground that it was not predicated upon a consideration of all relevant factors including the racial and socioeconomic factors. The case was remanded for an injunction until HUD had determined whether the site location or the renewal project would further the ends of the Federal housing policy.

Although the Shannon court did not rule upon the merits, it held that the Civil Rights Act could be violated without intentional discrimination. Cf. Hicks v. Weaver, 302 F.Supp. 619, 623 (E.D. La. 1969); Gautreaux v. Chicago Housing Auth., 296 F.Supp. 907 (N.D. Ill. 1969). The court held that HUD's choice of a site location which resulted in an undue concentration of persons of a given race or socioeconomic group in a given neighborhood could cause racial discrimination without any intent to discriminate, and suggested that absence of discrimination might not be sufficient since positive integration was the objective. The court conceded that (p. 622):

"There will be instances where a pressing case may be made for the rebuilding of a racial ghetto."

and concluded that (p. 821):

"So long as it [HUD] adopts some adequate institutional means for marshaling the appropriate legislative facts the rights of affected residents will be adequately protected, we think, by the opportunity to obtain judicial review pursuant to the Administrative Procedure Act after the agency decision."

This standard was subsequently applied in South East Chicago Commission v. Department of HUD, 343 F.Supp. 62 (N.D. Ill., 1972), aff'd 488 F.2d 1119 (7th Cir., 1973).

The necessity to rehabilitate a blighted neighborhood and to provide additional low-income housing at a particular site may clearly outweigh the disadvantages of racial concentration. If HUD adopts the proper procedures and considers the relevant factors to effectuate the congressional policy, there is no bar to HUD's approval of a housing project in a predominantly black neighborhood, as it did in this case. See Croskey Street Concerned Citizens v. Romney, 335 F.Supp. 1251 (E.D. Pa.), aff'd., 459 F.2d 109 (3d Cir. 1971). Thus low-income housing and racial concentration at a particular site are not mutually exclusive if justified by the relevant

housing factors.

Conclusion


Site selection is not simple and requires the consideration and balancing of many complex factors. See Ledbetter, Public Housing - A Social Experiment Seeks Acceptance, 32 Law & Contemp. Prob. 490, 504 (1967); Comment, 85 Harv. L. Rev. 870, 878 (1972). A court should not jettison HUD's determination without a finding of arbitrary and capricious action not in accordance with law, which it cannot find in this case. In applying the Administrative Procedure Law framework, the court had before it and examined in depth the administrative record. It directed its attention to HUD's formalized fact-finding procedures, its report, the affidavits of the HUD officials involved in the approval of the project and the investigative report which in fact was a second look at the project made pursuant to the petitioners' administrative complaint. The court also noted the failure of the petitioners to supply affidavits presenting a factual issue as contrasted to their opinions.^{7/} After closely scrutinizing the allegations of racial discrimination, Southern Christian Leadership Conference v. Connolly, 331 F.Supp. 940 (E.D. Mich. 1971), the court concludes that (1) there

was no intentional discrimination; (2) HUD's discretion was properly exercised within the framework of the national policy against discrimination in federally funded housing; (3) the record establishes that HUD through its Project Selection System investigated, weighed and balanced all the relevant factors; and (4) its judgment was an informed one without clear error and fully satisfied the requirements of Section 706 of the Administrative Procedure Act.

Accordingly, HUD's motion for summary judgment is granted and the complaint against it is dismissed. The complaint against the Town and the LPA being also predicated on a violation of the Civil Rights Act of 1964, it follows that the approval of HUD's action includes a determination of no discrimination on the part of the Town and the LPA, and likewise mandates a dismissal against both of these respondents.

SO ORDERED.

Dated: Brooklyn, New York
June 26 1974.


United States District Judge

Footnotes

- 1/ Although challenged, both individual petitioners, as residents of the neighborhood, and the Great Neck Manor Civic Association, consisting of such residents, have standing as "aggrieved" persons under the Administrative Procedure Act, 5 U.S.C. § 702. Association of Data Processing Service Org., Inc. v. Camp, 397 U.S. 150, 90 S.Ct. 827 (1970); Shannon v. United States Dept. of Housing & Urban Dev., 436 F.2d 809 (3d Cir., 1970).
- 2/ Resolution #369-1971, June 15, 1971.
- 3/ Some members of the Great Neck Manor Civic Association took action to disassociate themselves from this lawsuit and expressed their support for the Project in letters to the L.L. after being named as individual petitioners. (Letters of Ella J. Harris, Alberta Johnson, William Harris, July 26, 1973; Letter of Thomas T. Holmes, August 2, 1973.)
- 4/ Consisting of private rental market and sales; 66 units of state-aided family public housing; 89 units of federal--funded housing and 110 units of Mitchell-Lama housing. In addition, contrary to petitioners' allegation that the Project would burden the Manhasset School District, HUD's Equal Opportunity Division found that the Project would be located in the Great Neck School District which has a minority enrollment of 4% rather than the Manhasset School District which has an 11% minority enrollment, thus contributing to the desegregation of the North Hempstead School System. (Report of Grace Malone, Equal Opportunity Division, June 11, 1973.)

Footnotes (continued)

- 5/ The Town and the LPA charged petitioners with laches on the theory that by analogy to the 4-month statute of limitations applicable under New York law to actions against administrative bodies and officers, NYCPLR § 217, petitioners have slept on their rights. See Holmberg v. Armbrecht, 327 U.S. 392, 66 S.Ct. 582 (1946). On the other hand, petitioners argued that New York's 3-year limitation applicable to actions brought under a statute, NYCPLR § 214, should be applied by analogy as in other Civil Rights actions, Swan v. Bd. of Higher Education, 319 F.2d 56, (2d Cir., 1963); Ortiz v. La Vallee, 442 F.2d 912 (2d Cir., 1972); Romer v. Leary, 425 F.2d 186 (2d Cir., 1970). Considering the emergency nature of the funding of housing projects, the court believes that the interest of all concerned would be best served in an action brought under the Civil Rights Act of 1964, 42 U.S.C. 2000d, by the application of the shorter, four-month statute. (See Abrams v. Carrier Corporation, 434 F.2d 1234, 1251-52 (2d Cir., 1970)), rather than the three-year limitation as applied in the above actions instituted under the Civil Rights Act of 1871, 42 U.S.C. § 1983. Instead of barring petitioners upon this ground, the court felt that petitioners should have a second opportunity to present their objections to the Project, and induced HUD to waive this defense.
- 6/ In order to effectuate the provisions of 42 U.S.C. § 2000d and in accordance with § 2000d-1, HUD promulgated regulations designed to prevent discrimination in federally financed housing programs at 24 C.F.R. § 1.1 et seq. Following the mandate of Shannon, supra, HUD developed further procedures to prevent discrimination in its NDP Project Selection System, 24 C.F.R. § 511 et seq.; 511.4(c); 511.20.
- 7/ Petitioners also failed to reply to the statement of facts not in issue filed by Respondents pursuant to Rule 9(g), General Rules of the Southern and Eastern District Courts of New York.

24 C.F.R. §1.7

§ 1.7 Conduct of investigations.

(a) *Periodic compliance reviews.* The responsible Department official or his designee shall from time to time review the practices of recipients to determine whether they are complying with this Part 1.

(b) *Complaints.* Any person who believes himself or any specific class of persons to be subjected to discrimination prohibited by this Part 1 may by himself or by a representative file with the responsible Department official or his designee a written complaint. A complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by the responsible Department official or his designee.

(c) *Investigations.* The responsible Department official or his designee shall make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a pos-

sible failure to comply with this Part 1. The investigation should include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this Part 1 occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with this Part 1.

(d) *Resolution of matters.* (1) If an investigation pursuant to paragraph (c) of this section indicates a failure to comply with this Part 1, the responsible Department official or his designee will so inform the recipient and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in § 1.8.

(2) If an investigation does not warrant action pursuant to subparagraph (1) of this paragraph the responsible Department official or his designee will so inform the recipient and the complainant, if any, in writing.

(e) *Intimidatory or retaliatory acts prohibited.* No recipient or other person shall intimidate, threaten, coerce, or discriminate against any person for the purpose of interfering with any right or privilege secured by title VI of the Act or this Part 1, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Part 1. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this Part 1, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

24 C.F.R. PART 511

PART 511—NEIGHBORHOOD DEVELOPMENT PROGRAM PROJECT SELECTION SYSTEM

- Sec.
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 - 511.22 Community development.

AUTHORITY: The provisions of this Part 511 issued under secs. 131-134, of the Housing Act of 1949, as amended, 82 Stat. 518-520; 42 U.S.C. 1463-1469c.

SOURCE: The provisions of this Part 511 appear at 37 F.R. 7388, Apr. 14, 1972, unless otherwise noted.

§ 511.1 Scope.

(a) *Purpose.* This part sets forth criteria and procedures to be used in preliminary evaluation of applications for Federal loan and grant assistance to local public bodies and agencies for Neighborhood Development Programs, which are urban renewal undertakings and activities, in one or more urban re-

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newal areas, that are planned and carried out on the basis of annual increments.

(b) *Procedures.* Submissions will first be reviewed against six prerequisites. If any of these prerequisites are not met, the application will be rejected. If the application appears to meet the prerequisites, it will be evaluated against the point rated criteria and assigned a point rating. Then, depending upon the relative rating of the application among other such applications pending in the area office, the applicant may be asked to submit further application material, with supporting documentation so that a final decision on the grant may be reached. Such application material is subject to reviews to determine compliance of the application with basic eligibility and technical requirements. If an application does not receive a high enough point rating to qualify for funding as compared to other pending applications, or if the application cannot meet basic eligibility or technical requirements, the application and any supporting documents will be returned to the applicant with advice as to the areas of deficiency. Remedial action regarding the deficiencies must be undertaken before the proposal may be reconsidered. The provisions of these regulations do not apply to projects involving New Communities, or such other critical or innovative projects as the Assistant Secretary for Community Development may determine. The Department reserves the right to negotiate the modification of the scope of the proposed undertaking and/or the amount of financial assistance requested.

§ 511.2 Definitions.

As used in the regulations in this part:

(a) "Applicant" means a local public agency as defined under sec. 110(h) of the Housing Act of 1949; 63 Stat. 413, 421; 42 U.S.C. 1460(h), which is applying for Federal Assistance under the Neighborhood Development Program.

(b) "City Demonstration Agency" means that agency which was required to be established under title I of the Demonstration Cities and Metropolitan Development Act of 1966, 80 Stat. 1255, 42 U.S.C. 2301, to carry out a Model Cities program at the local level.

(c) "Locality" means the political jurisdiction or jurisdictions having general purpose government powers upon whose behalf the application for Federal assistance has been submitted.

(d) "Low and moderate income" means an income level which is less than the maximum income eligibility level for a family of four under either of the subsidized housing programs authorized by section 235 or 236 of the National Housing Act, as amended, 82 Stat. 476, 477, 498, 12 U.S.C. 1715Z, 1715Z-1.

(e) "Low- and moderate-income housing" refers to housing with a fair market value that is equal to or less than the resultant of multiplying the section 235-236 maximum income for a family of four, as established by the Secretary for the county in which the project is located, by a factor of 3. "Low- and moderate-income housing" also refers to housing with an annual rental equal to or less than one-third of such section 235-236 maximum income.

(f) "Model neighborhood" means that geographical area in which funds are being spent under a program authorized by title I of the Demonstration Cities and Metropolitan Development Act of 1966, 80 Stat. 1255, 42 U.S.C. 2301.

(g) "NDP area" means the area or areas in which urban renewal project activities are taking place or are to take place under a neighborhood development program.

(h) "Renewal experience" means those renewal efforts and related relocation activities carried out under one or more urban renewal projects under sec. 110(c) of the Housing Act of 1949, as amended, 63 Stat. 413, 414; 42 U.S.C. 1450; or a Neighborhood Development Program as described in sections 121-134 of said Housing Act.

§ 511.4 Program prerequisites.

For the Neighborhood Development Program there are the following six prerequisites:

(a) *Workable program.* The presence of a certified or certifiable Workable Program pursuant to section 101 of the Housing Act of 1949, as amended, Public Law 81-171, 63 Stat. 413; U.S.C. 1451c. By "certifiable workable program" is meant a reasonable probability of certification or a certification based upon submitted materials and local progress towards meeting certification standards and conditions as indicated in HUD's Handbook for the Workable Program, RHA 7100.

(b) *Local general plan.* The presence of a local general plan, and conformance of the project thereto. A "local general plan" is defined as an official document or documents containing a land use plan.

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thoroughfare plan, community facilities plan, public improvement program, zoning ordinance and map, and subdivision regulations so interrelated that taken together they serve as a comprehensive guide for the physical development of the locality as a whole. The plan must have been endorsed or adopted by the local governing body of the locality in which the NDP is proposed.

(c) *Civil rights.* Submission of acceptable assurances of compliance with title VI of the Civil Rights Act of 1964, Public Law 88-352, 78 Stat. 252, 42 U.S.C. 2000d and HUD title VI regulations 24 CFR Part I, 29 F.R. 16280 and with affirmative action plan requirements pursuant to Executive Order 11246, as amended, 30 F.R. 12319, and HUD regulations 24 CFR Part 130, 36 F.R. 20683.

(d) *Relocation requirements (if applicable).* (1) Submission of acceptable assurance of compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894, 42 U.S.C. 4601, and;

(2) Absence of any known impediment to the applicant's ability to meet HUD relocation requirements and the applicant's and/or locality's ability to fulfill requirements for replacement housing. "Known impediment" refers to a practical inability to provide adequate relocation assistance and replacement housing, or a legal inability to comply with relocation-related provisions of Title I of the Housing Act of 1949, 63 Stat. 413, 414; 42 U.S.C. 1450, et seq.

(e) *A-95 coordination.* Evidence that A-95 coordination is in process. The phrase "A-95 coordination" refers to the procedure involving review of applications by the appropriate agency designated under OMB Circular A-95.

(f) *Housing component.* Absence of any known barrier to an adequate or better rating on the Housing Production and Mortgage Credit Project Selection System (37 F.R. 203-2, January 7, 1972) for any subsidized housing required to meet the housing component for the program.

§ 511.6 Criteria for evaluating applications.

Criteria for evaluating applications are divided into the following major categories:

- (a) Local effort and coordination;
- (b) Impact of area selected;
- (c) Program management capacity;

(d) Local equal employment and entrepreneurial effort;

(e) Local need;

(f) Commitment of local, county, State, and Federal entities to project or program;

(g) Expansion of housing for low- and moderate-income families;

(h) Community development.

The elements considered in each category are described in the following sections, and the method of assigning rating points to each element or category is set forth. Points are awarded to each element or category in the following manner unless otherwise specifically indicated: If a statement under a particular element or category applies specifically to the project application under consideration, the application is awarded the number of points assigned to that statement. If no statement applies, no points are awarded to the application for that element.

§ 511.8 Local effort and coordination.

(The value of this category is the sum of the values of paragraphs (a) and (b) of this section.)

(a) *Budget and capital improvement plan.* All necessary project related public improvements, facilities, and services are identified in the appropriate local budgets and/or capital improvements plan, except those included in project costs ----- 5

(b) *Model cities.* The NDP area is in whole or in part a Model Neighborhood, and there exists a statement by the City Demonstration Agency Director that the activities for which funding is requested are consistent with the goals and objectives of the Model Neighborhood plan ----- 5

§ 511.10 Impact of area selected.

(The value of this category is the sum of the values of paragraphs (a) to (d) of this section.)

(a) *Rehabilitation or addition of housing.* Seventy-five percent of the existing substandard residential units in the NDP area will be rehabilitated, and 75 percent of the total units will be retained, or the project will add to the housing stock without displacement ----- 7

"Substandard residential units" refer to those residential units which are out of compliance with the appropriate local housing and building codes.

(b) *Redevelopment areas.* The NDP area is in a designated redevelopment

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area as defined by the Public Works and Economic Development Act of 1965, as amended Public Law 89-136, 79 Stat. 552, 42 U.S.C. 3121, and the program shows evidence of conformance to the Overall Economic Development Plan for that area 4

(c) *Environmental deficiencies.* The locality is taking active steps (including those proposed under the NDP) to eliminate environmental deficiencies in the NDP area, including but not limited to any among those listed below 4

- (1) Overcrowding of land.
- (2) Substantial substandard housing.
- (3) Lack of open space.
- (4) Transportation (including parking) deficiencies.
- (5) Inadequate public facilities, including those for water, sewage, and solid waste.
- (6) Incompatible land uses.
- (7) Incompatible types of building uses.
- (8) Underutilized land 4
- (9) Inadequate air and water quality.

(d) *Expansion of low- and moderate-income housing.* The program contributes to the realistic plan referred to in § 511.20(c) 4

§ 511.12 Program management capacity.

(The value of this category is the sum of the values of either paragraphs (a) or (b) of this section. For purposes of this section, 4 points equals good, 8 points equals superior.)

(a) *Locality that has had previous renewal experience.* (The value of this element is the sum of subparagraphs (1) and (2) of this paragraph.)

(1) There is consistency between past project(s) results and relevant project objectives, including, where displacement was involved, the effective carrying out of relocation activities 4 or 8

(2) Since July 1, 1968, there has been a reasonable relationship between past initial cost and time commitments and actual cost and development time. 4 or 8

(b) *Locality that is without previous renewal experience.* (The value of this element is the sum of subparagraphs (1), (2), and (3) of this paragraph.)

(1) The applicant is organizationally part of a local general purpose government 4

(2) There is a likelihood of successful execution and completion of the proposed NDP, based on the relationship to the proposed NDP activities of the following factors:

- (i) Administrative budget.
- (ii) Time phasing for critical events.

(iii) Staff assignments.

(iv) Budgeted activities of other local agencies 4 or 6

(3) Either the locality's performance with other HUD programs in the last 3 years was satisfactory in all programs, or

For localities without other HUD program experience, the locality's performance in its public development efforts during the last 3 years was satisfactory 4

§ 511.14 Local equal employment and entrepreneurial effort.

(The value of this category is the sum of the values of paragraphs (a), (b), and (c) of this section.)

(a) Activities undertaken by the locality have provided relatively superior opportunities for training and/or employment of minority persons 3

(b) Activities undertaken by the locality have provided relatively superior opportunities for business concerns owned, controlled, or managed in substantial part by minority persons 3

(c) The applicant has taken affirmative action in its own employment in the training and/or employment of minority persons with relatively superior results 4

In determining whether or not performance has been "relatively superior" the following items will be taken into consideration: Absolute numbers of persons actually trained or hired in relation to numbers of minority group persons in the labor market area; total dollar value of contracts let to minority entrepreneurs in relation to total dollar amount of contracts let by locality; within the administering agency, racial composition at all levels of employment and absolute number of training opportunities made available to minority group persons.

§ 511.16 Local need.

(The value of this category is the sum of the values of paragraphs (a) and (b) of this section.)

(a) *Median income of jurisdiction.* The median annual family income of the geographic area of jurisdiction of the applicant compared to the State median annual family income is: (Select one, if appropriate):

- (1) \$1-\$500 below State median 3
- (2) More than \$500 below State median 6

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(b) *Median income of NDP area.* The median annual family income of the NDP area compared to the State annual median family income is: (Select one if appropriate):

- (1) \$1-\$500 below State median..... 4
 (2) More than \$500 below State median..... 8

Median family incomes for the NDP area and the State are to be obtained by utilizing the City-County Data Book or other census data if possible. Or use best available data.

§ 511.18 Commitment of local, county, State, and Federal entities to project or program.

(The value of this category is the sum of paragraphs (a) to (d) of this section.)

(a) *Local commitment.* There was substantial participation by the chief executive and governing body of the locality during the planning of the project, and they are demonstrating current public commitment in support of the project..... 4

(b) *Resident commitment.* There was effective widespread participation of a representative spectrum of NDP area residents in the development of project objectives and there is evidence of current support for the execution of the project..... 4

(c) *Coordination of resources.* There was substantial participation of other local agencies during planning, and there is a current commitment including resources, from Federal, State, county, or local entities other than those necessary to satisfy the local share requirement..... 4

(d) *Participation in areawide or metropolitan planning.* There is active participation by the locality's representatives in the areawide or metropolitan planning organization..... 3

§ 511.20 Expansion of housing for low- and moderate-income families.

(The value of this category is the sum of the values of paragraphs (a), (b), and (c) of this section.)

(a) *Expansion of low- and moderate-income housing (applicant).* Within the applicant's geographic area of jurisdiction, there has been significant expansion of the supply of standard housing for low- and moderate-income families in a nondiscriminatory way..... 3

(b) *Expansion of low- and moderate-income housing (locality).* Within the locality in which the project is located there has been significant expansion of the supply of standard housing for low- and moderate-income families in a nondiscriminatory way..... 3

(c) *Dispersion of low- and moderate-income housing.* The locality has a realistic plan to expand the supply of standard low- and moderate-income housing in a nondiscriminatory way outside areas of concentration of economically disadvantaged or minority citizens..... 4

§ 511.22 Community development.

The degree to which the project is necessary for undertaking other publicly supported community development activities..... 0 to 6

"Community development activities" refers to those publicly supported physical development activities and those related social or economic development activities being carried out or to be carried out within a reasonable period of time in accordance with a locally determined or areawide plan or strategy. Factors taken into consideration may include the project's responsiveness to local needs and objectives, the economics possible through coordinated or joint action, the degree of support by the appropriate unit(s) of local general-purpose government, and the management capacity within local general-purpose government.

